

**UTAH JUDICIAL COUNCIL**  
**POLICY, PLANNING, & TECHNOLOGY COMMITTEE**  
**MEETING AGENDA**  
June 2, 2023 – 12:00 p.m. to 2:00 p.m.  
**Webex**

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Chiara
12:05	Adult Drug & MH court certification checklists	Action	Tab 2	Judge Fuchs
12:15	<u>Rules back from public comment:</u> <ul style="list-style-type: none"><li>• <b>CJA 6-507.</b> Court visitors</li><li>• <b>CJA 3-414.</b> Court security</li></ul>	Action	Tab 3	Keisa Williams Chris Palmer
12:45	<b>CJA 4-202.11.</b> Vexatious record requester (NEW)	Action	Tab 4	Keisa Williams
1:05	Technology report/proposals	Discussion		Brody Arishita
1:50	Old Business/New Business			
2:00	Adjourn			

**2023 Meetings:**

July 7, 2023	October 6, 2023
August 4, 2023	November 3, 2023 (all day)
September 1, 2023	December 1, 2023

# TAB 1

Minutes

May 5, 2023

**UTAH JUDICIALCOUNCIL  
POLICY, PLANNING and TECHNOLOGY COMMITTEE  
MEETING MINUTES**

Webex video conferencing  
May 5, 2023: 9:00 a.m.

**DRAFT**

**MEMBERS:**

**PRESENT**

**EXCUSED**

**GUESTS:**

Judge Samuel Chiara, <i>Chair</i>	•	
Judge Suchada Bazzelle	•	
Judge Augustus Chin	•	
Judge Michael DiReda	•	
Judge James Gardner	•	

Keri Sargent  
Bart Olsen  
Paul Barron

**STAFF:**

Keisa Williams  
Brody Arishita  
Minhvan Brimhall

**(1) Welcome and approval of minutes:**

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the April 7, 2023 meeting. With no changes, Judge DiReda moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

Back from public comment:

- CAJ 1-205. Standing and ad hoc committees
- CJA 3-117. Committee on Court Forms
- CJA 3-406. Budget and fiscal management

The comment period for CJA rules 1-205, 3-117, and 3-406 closed at midnight on May 4, 2023. No comments were received. OFA Director, Jon Puente, requested that the Committee consider rule 1-205 at this meeting so that he can move forward with membership appointments to the Judicial Fairness and Accountability Committee. Mr. Puente is also seeking an expedited effective date. The committee agreed to address rules 1-205, 3-117, and 3-406, making no additional amendments.

***With no further discussion, Judge Gardner moved to send CJA 1-205, to the Judicial Council with a recommendation that it be approved as final on an expedited basis with an effective date of June 1, 2023. Judge Gardner also moved to send CJA 3-117 and CJA 3-406 to the Judicial Council with a recommendation that they be approved as final with an effective date of November 1, 2023. Judge Chin seconded the motions. The motions passed unanimously.***

**(2) HR Policies:**

- **Career Service Employment**
  - **Definitions**
  - **HR 4-5**

- **HR 4-14**
- **HR 5-1**
- **HR 5-2**
- **HR 6-9**
- **HR 10-1**
- **HR 11-1**
- **HR 12-3**
- **HR 17-1**

At the Committee's request, Mr. Olsen provided a brief overview of the Council's decision to move away from career service positions. Effective July 1, 2022, the Council approved a proposed policy amendment from the Human Resource Policy Review Committee (HRPRC) ending the practice of creating and filling "career service" positions. Employees hired into career service positions prior to that date were subject to a "probationary period" of 12 months in order to obtain career service status, thus those sections of the HR policy needed to remain in place through June 30, 2022. New hires after July 1, 2022 do not have a formal probationary period. Therefore, cleanup language is needed throughout the HR Policy Manual with an effective date of July 1, 2023.

The proposed amendments remove the terms "probationary" and "probation period" throughout and, where appropriate, make disclaimers or clarifying language to distinguish at-will and career service employees. The HRPRC also proposes replacing the term "career service exempt" with "at-will" to reduce confusion between "career service exempt" and "FLSA exempt."

Although the proposed amendments remove "probation" and "probationary period" from policy, the HRPRC still recommends a practice of close supervision and more detailed performance evaluation for new hires during their first year of employment. To avoid confusion and to distinguish between "probationary" employees who become eligible for career service status, the term "introductory period" is proposed in policy to help management adopt consistent practices in evaluating new at-will employees.

Following discussion, the committee recommended the following amendments:

- Definitions - none
- HR 4-5 - none
- HR 4-14 - none
- HR 5-1
  - Line 208: add... to "an" at-will.
  - Line 229 and 230: took out "an" and "employee."
- HR 5-2 - none
- HR 6-9
  - Line 396: add "status" after "at-will"
  - Line 408: add "status" after "at-will"
  - Line 415 : add "an" prior to "at-will" and "status" at the end of the sentence
- HR 10-1 - none
- HR 11-1 - none
- HR 12-3 - none
- HR 17-1 - none

***With no further discussion, Judge Bazzelle moved to send HR Definitions, HR 4-5, 4-14, 5-1, 5-2, 6-9, 10-1, 11-2, 12-3, and 17-1 to the Judicial Council with a recommendation that they be approved as final an effective date of July 1, 2023. Judge DiReda seconded the motions. The motions passed unanimously.***

- **Background Checks (HR 4-15)**

For several years, there have been questions about using internal court systems such as CARE or CORIS to help screen applicants. This amendment will clarify that the only background check system we use will be through the Utah Bureau of Criminal Investigation and none of our internal case management or records retention systems will be used to determine candidate viability.

The committee did not recommend additional amendments to HR 4-15

- **Sick Leave (HR 7-4)**

Mental health and wellness have become critical components of workplace culture, and the current verbiage authorizing the conditions for which management may grant approval for sick leave appears to disallow authorization for mental health care purposes when using qualifiers “preventative” and “dental” with health care. After much discussion, including input from the State and Deputy State Court Administrators, the proposed amendment clarifies that employees may use sick leave hours for all health care issues, including mental health and wellness.

The committee recommended the following amendments:

- Add “all” to make the policy more inclusive
- Line 7: rewritten to read: “Management may grant sick leave for “physical, mental, and emotional healthcare needs...

Mr. Olsen noted that court management will be trained on approving leave usage for health care needs. The proposed amendments will allow management the ability to give sick leave that is consistent with the needs of the Judicial Branch.

- **Bereavement Leave (HR 7-9)**

A legislative change in 2022 allowed management to approve extended time away, without using personal leave time, when an employee has a family member residing in another country. The proposed amendments include minor adjustments to better organize the policy section and provide more precise instructions to employees and management. No major substantive changes.

The committee recommended the following amendment:

- Remove “at least” from the first paragraph

- **Compensatory Leave Payouts (HR 8-5)**

Employees eligible for overtime pay under the Fair Labor Standards Act (FLSA) may opt to accrue leave time instead of immediate overtime pay. Currently, HR policy only allows compensatory time payouts when an employee leaves Judicial Branch employment. This proposed amendment enables management the flexibility to approve compensatory time payouts upon request as needed.

The committee did not recommend additional amendments to HR 4-15.

- **Acceptable use of IT resources**
  - HR 8-2(3)(c)
  - HR 9-15

Since the pandemic, telecommuting has become a more standard practice throughout the courts. The Information Technology Department (IT) identified security risks and practical gaps in HR Policy related to telecommuting. HR and IT collaborated to create an updated HR policy aligning with IT best practices and requirements.

The committee recommended the following amendments:

HR 8-2(3)(c):

- Link UPM in line 21, rather than line 27, and change “Utah Performance Management” in line 28 to “UPM.”
- Line 38: change “adhere” to “must.”

HR 9-15:

- Paragraph (4) – change “may” to “shall” as “shall” is already in used in paragraph “(5)
- Paragraph (4)(J) – amended to read as “Knowingly or recklessly (i) spread computer viruses or (ii) act in any way that compromises court IT security.”
- Subparagraph (4)(m) – add “;or” at the end of the sentence
- **Written warnings and grievance process**
  - **HR 10-3**
  - **HR 17-1**

This amendment fixes an apparent disparity with what is grievable to the Grievance Review Panel. HR10-3 appears to remove written warnings and MOU’s from the grievance process entirely. Whereas, HR17-1 states that any item not listed can be grieved up to Level 3 (TCE or AOC Director). This amendment clarifies that written warnings and MOU’s can be grieved, but only up to Level 3 as outlined in HR17-1.

The committee did not recommend additional amendments to HR 10-3 or 17-1.

- **Volunteer programs (HR 13-1)**

The Volunteer Programs policy has been in place for many years, in part to support what is required by [UCA §67-20](#) and applies to all state officers and employees (including those of the judicial branch). The act ensures that volunteers are covered under worker’s compensation and identifies fees, expenses, and other benefits. This amendment simply cites the code and helps ensure the courts’ policy aligns with any future changes to the code.

The committee recommended the following amendment:

- Line 18: link to Title 67, Chapter 20

***Following further discussion, Judge DiReda moved to send all of the above HR Policies, as amended, to the Judicial Council with a recommendation that they be approved as final with an effective date of July 1, 2023. Judge Gardner seconded the motion. The motion passed unanimously.***

**Technology report/proposals:**

These items are currently under review or work is in progress with the Technology Advisory Committee (TAC):

- Email retention: Bryson King and Todd Eaton met and reviewed current retention policies and practices. Bryson is working on a draft retention policy that incorporates our current state of technology.
- Audio Request Forms and Fees: The TAC will be reviewing changes to fees associated with requests for court audio, including overall audio system costs.
  - FTR costs approximately \$334,000/year
  - Additional annual IT costs are applicable

- Karl Sweeney, Finance Director, is assisting with the fees listed for clerical staff to align them more closely with salaries today (case manager, IT, JA, etc.).
- Legislative Audit: The court went through a Cybersecurity Audit/Assessment and scored a 92%. Some audit findings will need to be addressed by the TAC.
- Mr. Arishita is working on revisions to the 5 policies listed below. He asked whether the Committee would like to review policy drafts before they go to the TAC or after. The Committee determined that the policies should go to the TAC first.
  - [Acceptable Use Draft Policy](#)
  - [Information Security Draft Policy](#)
  - [IT Information Security Risk Management Draft Policy](#)
  - [IT Policies, Standards & Practices](#)
  - [Software Development Draft Policy](#)
- The TAC is also working on training for CyberSecurity that aligns more closely with the tools the courts use. The training would be available in the LMS system.

**Old Business/New Business:** None

**Adjourn:** With no further items for discussion, the meeting adjourned at 10:12 am. The next meeting will be held on June 2, 2023 at 12 PM via Webex video conferencing.

# TAB 2

## Problem-solving court certification checklists

**Notes:** Judge Fuchs is proposing an amendment to presumed certification criteria #30 in all checklists that deal with adult drug and mental health courts.

Judge Fuchs: “The reason for the change would be that in Utah, by Statute, we require a plea before a participant may be put in a Problem-Solving Court. In most cases by the time a participant has an attorney appointed and discovery completed, more than 50 days have passed. In addition, in Utah we take individuals into the programs as a condition of a probation violation.”

**Current language:** “Clients are placed in the program within 50 days of arrest.”

**Proposed language:** “Clients are placed in the program as soon after an arrest, a plea, sentencing, or a probation violation as possible. It is understood that the sooner treatment starts the better the outcomes.”



**UTAH JUDICIAL COUNCIL**  
**ADULT DRUG COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 16, 2019

**COURT LOCATION:** \_\_\_\_\_

**JUDGE NAME:** \_\_\_\_\_

**REVIEW DATE:** \_\_\_\_\_

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input type="checkbox"/>	<input type="checkbox"/>	4	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.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	5	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.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	9	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.	I.E.
<input type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
<input type="checkbox"/>	<input type="checkbox"/>	12	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.	III.D.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
<input type="checkbox"/>	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	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.	IV.B.
<input type="checkbox"/>	<input type="checkbox"/>	17	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.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	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.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input type="checkbox"/>	<input type="checkbox"/>	20	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.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	21	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.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	23	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.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	24	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.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
<input type="checkbox"/>	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	29	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.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
<input type="checkbox"/>	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
<input type="checkbox"/>	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
<input type="checkbox"/>	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	36	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.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	37	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.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
<input type="checkbox"/>	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
<input type="checkbox"/>	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
<input type="checkbox"/>	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	45	Participants 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.	VI.E.*
<input type="checkbox"/>	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
<input type="checkbox"/>	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.

YES	NO	#	<b>REQUIRED CERTIFICATION CRITERIA</b> <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	50	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.	VIII.C.
<input type="checkbox"/>	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
<input type="checkbox"/>	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
<input type="checkbox"/>	<input type="checkbox"/>	53	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.	X.D.*
<input type="checkbox"/>	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	<input type="checkbox"/>	3	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.	II.F.
<input type="checkbox"/>	<input type="checkbox"/>	4	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.	III.A.
<input type="checkbox"/>	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
<input type="checkbox"/>	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
<input type="checkbox"/>	<input type="checkbox"/>	7	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.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	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.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	10	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.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
<input type="checkbox"/>	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug	VII.B.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	<b>BPS</b>
			or alcohol test has been scheduled.	
<input type="checkbox"/>	<input type="checkbox"/>	13	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.	VII.D.
<input type="checkbox"/>	<input type="checkbox"/>	14	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).	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	16	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.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	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.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	19	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.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	20	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.	V.F. VI.G
<input type="checkbox"/>	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
<input type="checkbox"/>	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	24	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.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	25	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.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
<input type="checkbox"/>	<input type="checkbox"/>	30	Clients are placed in the program <u>as soon after an arrest, a plea, sentencing, or a probation violation as possible. It is understood that the sooner treatment starts the better the outcomes within 50 days of arrest.</u>	

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
<input type="checkbox"/>	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input type="checkbox"/>	<input type="checkbox"/>	33	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.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	34	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.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input type="checkbox"/>	<input type="checkbox"/>	36	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.	X.A.
<input type="checkbox"/>	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input type="checkbox"/>	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input type="checkbox"/>	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input type="checkbox"/>	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	4	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.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	5	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.	VI.E.
<input type="checkbox"/>	<input type="checkbox"/>	6	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	VI.F.

YES	NO	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
			necessary to manage panic, dissociation, or severe anxiety.	
<input type="checkbox"/>	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	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.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	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.	VI.J.
<input type="checkbox"/>	<input type="checkbox"/>	10	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.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
<input type="checkbox"/>	<input type="checkbox"/>	12	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.	IX.C.
<input type="checkbox"/>	<input type="checkbox"/>	13	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.	X.B.*
<input type="checkbox"/>	<input type="checkbox"/>	14	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.	X.F.
<input type="checkbox"/>	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	<input type="checkbox"/>	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

**UTAH JUDICIAL COUNCIL**  
**MENTAL HEALTH COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED 2020

**COURT LOCATION:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**REVIEW DATE:** \_\_\_\_\_

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input type="checkbox"/>	<input type="checkbox"/>	4	Candidates for the Mental health 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.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	5	Candidates for the Mental health Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Mental health Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental health Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Mental health Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Mental health Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
<input type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Mental health Court.	III.C.
<input type="checkbox"/>	<input type="checkbox"/>	12	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 Mental health Court team.	III.D.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.



YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			other appearances or administrative reviews when the judge is unavailable.	
<input type="checkbox"/>	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
<input type="checkbox"/>	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	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.	IV.B.
<input type="checkbox"/>	<input type="checkbox"/>	17	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.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Mental health Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input type="checkbox"/>	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental health Court participants and team members.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	21	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.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	22	The Mental health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	23	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.	IV.E.
<input type="checkbox"/>	<input type="checkbox"/>	24	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.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
<input type="checkbox"/>	<input type="checkbox"/>	28	Drug testing utilized by the Mental health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	29	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	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
<input type="checkbox"/>	<input type="checkbox"/>	30	Upon entering the Mental health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
<input type="checkbox"/>	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
<input type="checkbox"/>	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
<input type="checkbox"/>	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	36	Participants are not terminated from the Mental health 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.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	37	If a participant is terminated from the Mental health Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
<input type="checkbox"/>	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
<input type="checkbox"/>	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
<input type="checkbox"/>	<input type="checkbox"/>	43	Participants complete a final phase of the Mental health Court focusing on relapse prevention and continuing care.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	44	Participants are not excluded from participation in Mental health Court because they lack a stable place of residence.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Mental health Court and continuing as needed throughout their enrollment in the program.	VI.E.*
<input type="checkbox"/>	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of mental health court.	VI.I.*
<input type="checkbox"/>	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Mental health Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
<input type="checkbox"/>	<input type="checkbox"/>	50	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.	VIII.C.
<input type="checkbox"/>	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Mental health Court must be reasonably related to the costs of testing or other services.	
<input type="checkbox"/>	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
<input type="checkbox"/>	<input type="checkbox"/>	53	The Mental health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
<input type="checkbox"/>	<input type="checkbox"/>	54	The Mental health Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	The Mental health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	<input type="checkbox"/>	3	Each member of the Mental health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
<input type="checkbox"/>	<input type="checkbox"/>	4	The Mental health Court judge attends current training events on legal and constitutional issues in Mental health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
<input type="checkbox"/>	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
<input type="checkbox"/>	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
<input type="checkbox"/>	<input type="checkbox"/>	7	The Mental health 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.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	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.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	10	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.	VII.B.*

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	<b>BPS</b>
<input type="checkbox"/>	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
<input type="checkbox"/>	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
<input type="checkbox"/>	<input type="checkbox"/>	13	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 Mental health Court population.	VII.D.
<input type="checkbox"/>	<input type="checkbox"/>	14	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).	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental health Court's programmatic phase structure.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	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.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	19	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.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	20	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.	V.F. VI.G
<input type="checkbox"/>	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
<input type="checkbox"/>	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	24	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 Mental health Court.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental health Court and continuing as necessary throughout their enrollment in the program.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	27	All Mental health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Mental health Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	30	Clients are placed in the program <u>as soon after an arrest, a plea, sentencing, or a probation violation as possible. It is understood that the sooner treatment starts the better the outcomes within 50 days of eligibility screening.</u>	
<input type="checkbox"/>	<input type="checkbox"/>	31	Team members are assigned to Mental health Court for no less than two years.	
<input type="checkbox"/>	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Mental health Court issues.	
<input type="checkbox"/>	<input type="checkbox"/>	33	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 Mental health Courts.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Mental health Court model and best practices in Mental health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	35	The Mental health Court has more than 15 but less than 125 active participants.	IX.A.*
<input type="checkbox"/>	<input type="checkbox"/>	36	The Mental health 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.	X.A.
<input type="checkbox"/>	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental health Court.	X.C.
<input type="checkbox"/>	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Mental health Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input type="checkbox"/>	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input type="checkbox"/>	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Mental health Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Mental health 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.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Mental health Courts, including major depression, bipolar disorder	VI.E.

YES	NO	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
			(manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	
<input type="checkbox"/>	<input type="checkbox"/>	6	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.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	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 Mental health Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	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.	VI.J.
<input type="checkbox"/>	<input type="checkbox"/>	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
<input type="checkbox"/>	<input type="checkbox"/>	12	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.	IX.C.
<input type="checkbox"/>	<input type="checkbox"/>	13	The Mental health 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.	X.B.*
<input type="checkbox"/>	<input type="checkbox"/>	14	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 Mental health Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	<input type="checkbox"/>	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

# TAB 3

## Back from Public Comment:

CJA 6-507. Court visitors

CJA 3-414. Court security

### Notes:

**Rule 6-507** - No public comments were received. Below is a summary of the proposed amendments. No additional amendments are recommended.

1. replace “protected person” and “ward” with “respondent” where applicable;
2. clarify who may receive a court visitor report or notice (lines 68-75);
3. require the court visitor to file a Council-approved Order on Review form (lines 85-87);
4. delete the reference to language access because language access is addressed elsewhere in the Code of Judicial Administration (lines 59-62); and
5. provide the court with broad discretion in taking action on a report (lines 101-109).

**Rule 3-414** - Below is a summary of the proposed rule amendments:

1. require officers in plain clothes to wear something that identifies them as law enforcement officers (lines 170-172);
2. require officers to use a duty-type holster with a user-operated restraining device if a firearm is visible (lines 173-174);
3. clarify who is allowed to carry firearms in courthouses (lines 199-204); and
4. otherwise clean up or streamline the rule.

Of the 7 public comments received, 6 were from prosecutors or law enforcement officers objecting to the removal of “law enforcement official” from lines 199-200. When we discussed the rule draft in February, it was my understanding that the Judicial Council issued a statewide policy several years ago preventing prosecutors from carrying firearms in courthouses and that the Council’s policy was captured and enforced via local court security plans. With that understanding in mind, I did not intend for the removal of “law enforcement official” to have a substantive effect, but rather provide clarification of existing policy.

I have since learned that, while the issue was discussed with the Judicial Council several years ago, the Council did not issue a statewide policy. Local courts have the discretion to permit or prohibit possession by prosecutors through their local court security plans and current practices vary. With that in mind, I recommend leaving “law enforcement official” in the rule, allowing prosecutors to carry if possession is permitted by their local court security plans.

To address Judge Brady’s comment, I would define “court personnel” in (4)(C) and (4)(D) to include all court employees and judicial officers assigned to the courthouse governed by the local security plan. Under (7)(B), however, I would extend “court personnel” to also include judicial officers and court employees visiting or temporarily working in a courthouse to which they are not assigned. I believe (7)(C) is intended to apply to court employees from any jurisdiction and would not apply to judicial officers.

For example, if a 3<sup>rd</sup> district judge and court employee assigned to Matheson went to the Provo courthouse for a 4-hour meeting, the 4<sup>th</sup> district TCE would not be expected to give them both a copy of the Provo courthouse security plan and training (4)(C), nor should the local 4<sup>th</sup> district security plan necessarily need to account for judges and employees not assigned to that courthouse (4)(D). But the visiting judge and court employee should be able to carry a personal protection device (7)(B) and the judge should be able to carry a firearm if permitted under the local 4<sup>th</sup> district plan (7)(C).

“Court staff” and “court personnel” are used throughout the rule. To Judge Brady’s point, they are not all intended to encompass the same people. I’ve made several changes throughout the rule (highlighted) in an attempt to clarify intent, but there is room for improvement.



## UTAH COURT RULES – PUBLISHED FOR COMMENT

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Posted: February 28, 2023

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#### Code of Judicial Administration – Comment Period Closed April 14, 2023

**CJA06-0507. Court visitors (AMEND).** The proposed amendments replace “protected person” and “ward” with “respondent” where applicable; clarify who may receive a court visitor report or notice; require court visitors to use a Council-approved Order on Review form; and provide the court with broad discretion in taking action on a court visitor report. Language access requirements are addressed elsewhere in the Code of Judicial Administration.

**CJA03-0414. Court security (AMEND).** The proposed amendments require officers in plain clothes to wear something that identifies them as law enforcement; require officers to use a duty-type holster with a user-operated restraining device if a firearm is visible; clarify who is allowed to carry firearms in courthouses; and otherwise clean up or streamline the rule.

This entry was posted in [-Code of Judicial Administration](#), [CJA03-0414](#), [CJA06-0507](#).

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

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## UTAH COURTS

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8 thoughts on “Code of Judicial Administration – Comment  
Period Closed April 14, 2023”

**James Vilos**  
February 28, 2023 at 12:12 pm

Re amendments to CJA03-0414. Although the rule references 78A-2-203, I do not see that the rule complies with paragraph (2)(b) relating to setting up a firearm storage area for persons with lawfully carried firearms. This paragraph uses the mandate “shall.” It is not an option to not provide such storage in any courthouse protected by a secured area. There are patrons who may park outside the courthouses or take public transportation. By not complying with section 203, this rule puts these patrons at risk as they travel to and from the courthouse and may create liability for the State in the event of injury or death to such patrons who would have had a defensive firearm but for the rule (which again, does not comply with section 203). The Judicial Council should mandate all courthouses with secured areas to strictly comply with UCA 78A-2-203.

**Branden Miles**  
February 28, 2023 at 2:22 pm

“Law Enforcement Official” has been deleted on lines 199-200. These officials, also defined in Utah Code 53-5-711, have the same training requirements and requalification requirements as judges/commissioners. Many courthouses do not have a secure storage for firearms available and would require that we leave our firearms in a vehicle or other location, which inherently

- [-Rules of Appellate Procedure](#)
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- [CJA01-0201](#)
- [CJA01-0204](#)
- [CJA01-0205](#)
- [CJA01-0205](#)
- [CJA01-0302](#)
- [CJA01-0303](#)
- [CJA01-0304](#)
- [CJA01-0305](#)
- [CJA010-01-0404](#)
- [CJA010-1-020](#)
- [CJA02-0101](#)
- [CJA02-0103](#)
- [CJA02-0104](#)
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- [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](#)

leaves us other officials more vulnerable that the judges that are still allowed to possess firearms and have secure parking areas associated with the court. We don't advertise or announce our possession of the firearm publicly, but we do sign a log and quietly notify appropriate court security when we do have it. We follow and adhere to the same guidelines as police officers in this regard and are considered part of our local security plan. If judges and court commissioners are allowed to possess firearms in accordance with this provision, then law enforcement officials similarly qualified should also be included. Please consider revising that provision.

**Stephen Starr**  
February 28, 2023 at 4:04 pm

Regarding Rule CJA03-0414, the proposed amendments appear to prevent a prosecuting attorney from carrying a firearm in a courthouse. As a prospecting attorney for Weber County, I am opposed to this. As prosecutors, we tend to upset people (whether it be the defendant, a family member, or others associated with the defendant) when we prosecute people. While the inside of a courthouse is relatively secure, a prosecutor faces the most danger from upset persons while the prosecutor is outside of the courthouse, i.e., transitioning from the parking lot to the courthouse. If a prosecutor cannot bring a firearm into the courthouse, he/she will be required to leave it in his car, thus leaving him exposed in the parking lot to those who would seek to do him harm.

**Sean Brian**  
February 28, 2023 at 4:38 pm

By excluding "law enforcement officials", this rule change creates a potential conflict with Utah Code 53-5-711.

I am a prosecutor and have carried my firearm concealed responsibly in the courtroom since my first year working for the county. I have been a part of our local security plan and participated in training and qualification assessments diligently every year.

There is no reason to exclude law enforcement officials where we are subject to the same training and currency standards.

**Thomas Pedersen**

- CJA03-0111.02
- CJA03-0111.03
- CJA03-0111.04
- CJA03-0111.05
- CJA03-0111.06
- CJA03-0112
- CJA03-0113
- CJA03-0114
- CJA03-0115
- CJA03-0116
- CJA03-0117
- CJA03-0201
- CJA03-0201.02
- CJA03-0202
- CJA03-0301
- CJA03-0301.01
- CJA03-0302
- CJA03-0303
- CJA03-0304
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- CJA04-0110
- CJA04-0201
- CJA04-0202
- CJA04-0202.01
- CJA04-0202.02
- CJA04-0202.03
- CJA04-0202.04
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- CJA04-0202.06

**March 1, 2023 at 8:35 am**

I have a few issues with one portion of this proposed rule:

This proposed rule strips “law enforcement official” in section (8)(B)(ii) as someone who can ever conceal carry in a courtroom – regardless of what the local security plan says, and regardless of their training and skill in handling a firearm.

First, this proposed rule overrides the discretion of local courts to determine their security plans and places my colleagues and me at risk of harm in the process. Under the old version of this rule, if a local court did not want judges, court commissioners, or law enforcement officials (all three being the LEOJ permit under 53-5-711) to carry in the courtroom – they could exercise their local discretion under their local security plan to ban those individuals from carrying in the courtroom. Under the proposed change, even if a local court wanted to, they could not permit law enforcement officials to conceal carry under their local security plan. What this board is doing through this proposed change is arbitrarily stripping discretion on how courts can formulate their local security plans, and that is unacceptable.

Second, this proposed change also strips the state law of its intended purpose in creating the LEOJ permit – for prosecutors and judges to be able to protect themselves from violent offenders. It is the same reason prosecutors and judges can remove their addresses from being publicly listed. I put away bad guys and I have received personal threats from some of the people I have put away over the years. Our local district court does not have lockers for people to check their guns, so my only option under the proposed change would be to leave my gun in my car or at the office. Either way I would be defenseless walking across the parking lot to the courthouse. That is unacceptable.

I have prosecuted in Weber County for 6.5 years. I requalify under the LEOJ permit every year by shooting the same course that law enforcement does. There have been no issues with prosecutors from our office carrying. We check in with the bailiffs downstairs and sign in to a log to let them know who is carrying and still in the courthouse. Those of us who do choose to carry do so discreetly and securely.

The proposed change to strip discretion of local courts to make local decisions on formulating their local security plans consistent with existing laws that places prosecutors in danger is unacceptable. I am strongly opposed to the proposed change as it relates to section (8)(B)(ii), and will continue to advocate against it.

**James Brady**

- CJA04-0202.07
- CJA04-0202.08
- CJA04-0202.09
- CJA04-0202.10
- CJA04-0202.12
- CJA04-0203
- CJA04-0205
- CJA04-0206
- CJA04-0208
- CJA04-0302
- CJA04-0401
- CJA04-0401.01
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- CJA04-0510.01
- CJA04-0510.02
- CJA04-0510.03
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- CJA04-0904
- CJA04-0905
- CJA04-0906
- CJA04-0907
- CJA05-0101
- CJA05-201
- CJA06-0101
- CJA06-0102
- CJA06-0104

**March 1, 2023 at 8:47 am**

Could the committee define “court personnel” as used in Paragraphs 4(C); 4(D); 7(B) and 7(C). Does “court personnel” include 1) all employees of the Office of Courts Administration, 2) all employees of the Utah State Courts, 3) all appointed court officers, 3) all employees of other departments assigned to work at any court building?

**Thomas Pedersen**

**March 2, 2023 at 7:59 am**

This proposed rule strips “law enforcement official” in section (8)(B)(ii) as someone who can ever conceal carry in a courtroom – regardless of what the local security plan says, and regardless of their training and skill in handling a firearm.

First, this proposed rule overrides the discretion of local courts to determine their security plans and places my colleagues and me at risk of harm in the process. Under the old version of this rule, if a local court did not want judges, court commissioners, or law enforcement officials (all three being the LEOJ permit under 53-5-711) to carry in the courtroom – they could exercise their local discretion under their local security plan to ban those individuals from carrying in the courtroom. Under the proposed change, even if a local court wanted to, they could not permit law enforcement officials to conceal carry under their local security plan. What this board is doing through this proposed change is arbitrarily stripping discretion on how courts can formulate their local security plans, and that is unacceptable.

Second, this proposed change also strips the state law of its intended purpose in creating the LEOJ permit – for prosecutors and judges to be able to protect themselves from violent offenders. It is the same reason prosecutors and judges can remove their addresses from being publicly listed. I put away bad guys and I have received personal threats from some of the people I have put away over the years. Our local district court does not have lockers for people to check their guns, so my only option under the proposed change would be to leave my gun in my car or at the office. Either way I would be defenseless walking across the parking lot to the courthouse. That is unacceptable.

I have prosecuted in Weber County for 6.5 years. I requalify under the LEOJ permit every year by shooting the same course that law enforcement does. There have been no issues with prosecutors from our office carrying. We check in with the bailiffs downstairs and sign in to a log to let them know who is carrying and still in the courthouse. Those of us who do choose to carry do so discreetly and securely.

- CJA06-0303
- CJA06-0401
- CJA06-0402
- CJA06-0501
- CJA06-0503
- CJA06-0504
- CJA06-0505
- CJA06-0506
- CJA06-0506
- CJA06-0507
- CJA06-0601
- CJA07-0101
- CJA07-0102
- CJA07-0301
- CJA07-0302
- CJA07-0302
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- CJA07-0304
- CJA07-0307
- CJA07-0308
- CJA09-0101
- CJA09-0103
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- CJA09-0109
- CJA09-0301
- CJA09-0302
- CJA09-109
- CJA10-1-203
- CJA10-1-602
- CJA11-0101
- CJA11-0102
- CJA11-0103
- CJA11-0104
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- CJA11-0513
- CJA11-0591
- CJA14-0515
- CJA14-0721
- CJA\_Appx\_F
- CJA\_Appx\_I
- CJA\_Appx\_J
- CJC Terminology
- CJC01

The proposed change to strip discretion of local courts to make local decisions on formulating their local security plans consistent with existing laws and in so doing places prosecutors in danger is unacceptable. I am strongly opposed to the proposed change as it relates to section (8)(B)(ii), and will continue to advocate against it.

**Ryan Carver**  
**April 4, 2023 at 8:03 pm**

As a law enforcement officer and one who routinely gets threats against my person due to my job as a police officer, I whole heartedly disagree with this action. We do not park in secure parking. This means that criminal elements can go shopping for firearms in parking lots around the courts. There are no lock up locations for our firearms and our department policies recommend carrying off duty, they also dictate how weapons must be stored. If you require I not travel with my firearms then feel free to enact a rule allowing law enforcement to attend court virtually. This allows us to maintain our safety, it allows for your ridiculous rule change, and allows my continued safety and compliance with my department policy. I do not see a legitimate reason for this change.

- CJC02
- CJC02.11
- CJC02.12
- CJC02.3
- CJC03
- CJC03.7
- CJC04
- CJC04.1
- CJC05
- CJCApPLICABILITY
- Fourth District Local Rule 10-1-407
- LPP1.00
- LPP1.01
- LPP1.010
- LPP1.011
- LPP1.012
- LPP1.013
- LPP1.014
- LPP1.015
- LPP1.016
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- LPP15-0716
- LPP15-0717
- LPP15-0718
- LPP15-0719
- LPP15-0720
- LPP15.01001
- LPP15.01101
- LPP15.01102
- LPP15.01103
- LPP15.01104
- LPP15.01105
- LPP15.01106



**Rule 3-414. Court Security****Intent:**

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

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

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

**Applicability:**

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

~~Section Paragraphs (7) and (8) on weapons~~ shall not apply to trial exhibits.

**Statement of the Rule:****(1) Definitions.**

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

(1)(B) **“Key manager”** ~~A key manager is means~~ a person authorized by ~~the~~ court executive or ~~the~~ dDeputy sState cCourt aAdministrator to issue, retrieve, activate, and deactivate keys ~~and/or~~ access cards to courthouses in their districts.

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

**(2) Responsibilities of the Council.**

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

(2)(B) As a condition for ~~the justice court certification of a new justice court or the continued or recertification of an existing justice court~~, the Council shall require the justice court ~~shall to~~ file an acceptable local security plan with the ~~cCourt sSecurity dDirector~~ and shall file, including any amendments to the plan ~~with the Court Security Director~~ as amendments are made. The local security plan shall provide for the

presence of a law enforcement officer or constable in court during court sessions or a reasonable response time by the local law enforcement agency upon call of the court.

**(3) Responsibilities of the Administrative Office.**

(3)(A) The state court administrator shall appoint a ~~c~~Court ~~s~~Security ~~d~~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 ~~c~~Court ~~s~~Security ~~d~~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 ~~c~~Court ~~s~~Security ~~d~~Director; and

(4)(A)(iv) file amendments to the plan with the ~~c~~Court ~~s~~Security ~~d~~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 in~~ the judicial district ~~of any court level that regularly occupying the courthouse, including the justices of the Supreme Court, the judges of the Court of Appeals, district court judges, juvenile court judges, and all justice court judges who occupy 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 judges, commissioners, court personnel~~employees~~, volunteers, and security personnel assigned to the courthouse governed by the plan.

(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 is appearing at the courthouses 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 bailiffs; and

(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 [Utah Code](#) 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 in [Utah Code](#) 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 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 a local security plan in accordance with this rule, no person may possess a weapon, firearm, ammunition, or ~~dangerous weapon~~explosive device in a courthouse.

~~(7)(B)(v)~~ If permitted by a local security plan, judges, court commissioners, court employees, and volunteers may possess an otherwise legal personal protection device, other than a firearm, except while appearing as a party to litigation.

~~(7)(C)~~ Court employees and volunteers shall not possess a firearm while on duty, regardless of location.

**(8) Firearms.** ~~(7)(A)(ii)~~ All firearms permitted under this rule and a local security plan ~~(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.

~~(8)(A)(ii)(a)~~ **Firearm security.** While in publicly accessible areas of the courthouse, all firearms shall: ~~and~~

~~(8)(A)(i)~~ be carried upon the person ~~and shall be~~ concealed, unless worn as part of a public law enforcement ~~agency~~ uniform, with agency affiliation visible from at least three sides;

(8)(A)(ii) if visible in accordance with (8)(A)(i), be secured in a duty-type holster with a user-operated restraining device; and

(8)(A)(iii) if concealed, be secured with a restraint feature and not visible to the public.

~~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.~~

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

(87)(B)(i) **Officers.** 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:

(87)(B)(i)(a) "law enforcement officer," as defined in Utah Code Section 53-13-103;

(87)(B)(i)(b) "correctional officer," as defined in Utah Code Section 53-13-104;

(87)(B)(i)(c) "special function officer," as defined in Utah Code Section 53-13-105;

(87)(B)(i)(d) "federal officer," as defined in Utah Code Section 53-13-106; and

(87)(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.

(87)(B)(ii) **Judges and court commissioners.** ~~A judge or law enforcement official, and court commissioners,~~ as defined in Utah Code Section 53-5-711, may possess ~~in a courthouse~~ a firearm and ammunition in a courthouse, if for which the judge or law enforcement official, or court commissioner has a valid certificate of qualification issued under Utah Code Section 53-5-711 and 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.~~

(8)(B)(iii) Court Security Director. 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:

(8)(B)(iii)(a) qualify for a certificate issued under Utah Code Section 53-5-711;

(8)(B)(iii)(b) qualify as a Utah police officer firearms instructor in accordance with Utah Administrative Code R728-502-9(4); or

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

~~(87)(CB)(ivii)~~ **Appearing as a party.** A person permitted ~~under subsections (i), (ii), (iii), or (vi)~~ to possess a firearm under paragraph (8)(B) ~~nevertheless~~ shall not possess a firearm in a courthouse or courtroom if the person is appearing ~~at the courthouse~~ as a party to litigation.

(8)(D) Courtrooms. Any person possessing a firearm in a courtroom shall notify the bailiff or the judge.

~~(7)(B)(v) 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)(B)(vii) 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)(vii)(a) qualify for a certificate issued under Section 53-5-711;~~

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

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

~~(87)(EG)~~ **Firearm training requirements.** ~~(7)(C)(i)~~ To requalify for a certificate issued under Utah Code Section 53-5-711, a judges and court commissioners shall annually complete with a passing score and pass 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.

~~(87)(FD)~~ **Costs.** The cost of firearms, ammunition, initial qualification, requalification, and any other equipment, supplies or fees associated with a certificate of qualification issued under Utah Code Section 53-5-711 shall be the responsibility of the judge or court commissioner and shall not be paid from state funds.

**(98) Security devices and procedures.**

~~(98)~~(A) **Metal detectors.** The use of metal detectors or other screening devices, ~~where~~ present, shall be used by the law enforcement agency responsible for security ~~or~~ or bailiff services.

~~(98)~~(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.

~~(98)~~(C) **Individuals in custody.** All persons in custody shall be kept in a holding cell, restrained by restraining devices, or supervised at all times while in a courthouse or courtroom, unless otherwise specifically ordered by the judge in whose courtroom the individual appears.

~~(98)~~(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 ~~c~~Court ~~s~~Security ~~d~~Director.

~~(98)~~(E) **Courthouse aAccess cControl.** Only judges, court commissioners, court ~~staff~~employees, ~~and~~ security, and maintenance staff assigned to the courthouse will be granted access cards ~~s or~~ or keys and only to those areas of the courthouse to which the individual needs access. A court executive may approve access to a courthouse by judges, commissioners, and court employees not assigned to the courthouse, if the court executive determines access is appropriate under the circumstances. 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 ~~d~~Deputy ~~s~~State ~~c~~Court ~~a~~Administrator.

~~(98)~~(E)(i) **Access cards or keys.** Access cards or keys will be issued by a key manager only with the prior written authorization of ~~at~~the court executive~~(s)~~ or the ~~d~~Deputy ~~s~~State ~~c~~Court ~~a~~Administrator. Detailed recording of all card ~~and~~ and key

transactions will be the responsibility of the key manager. Supervisors shall recover all issued keys and /cards from court ~~personnel~~ employees who are terminated, suspended or transferred or if loss of privileges is part of an adverse personnel action. Supervisors will return the cards or /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.

(98)(E)(ii) **Identification.** Court personnel-employees, judges, court commissioners, and any individual issued court identification ("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, access cards or keys to others and must report any lost or missing identification or access card or key to the key manager or their direct supervisor as soon as possible after the loss is discovered. Any lost access card will be deactivated before a replacement card is issued.

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

(98)(E)(iv) **Semi-annual review.** The court executive will undertake a semiannual review of access card records to ensure that no unauthorized use is occurring.

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

**(109) Transportation of persons in custody.**

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

(109)(B) The transportation officer shall:

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

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

(109)(B)(iii) support the court bailiff in the preservation of peace in the courthouse and courtroom;



320 (109)(B)(iv) provide advance notice of the transportation and of any extraordinary  
321 security requirements to the law enforcement agency responsible for court  
322 security, to the judge, and to the bailiff;

323 (109)(B)(v) comply with any regulations of the county sheriff regarding the  
324 transportation of persons in custody to court; and

325 (109)(B)(vi) return the person in custody to the proper place of confinement.

326 (109)(C) The law enforcement agency responsible for court security shall provide  
327 assistance to the transportation officer as circumstances dictate.

328 *Effective: May/November 1, 20\_\_~~18~~*



**Rule 6-507. Court visitors.****Intent:**

To set forth the appointment and role of court visitors. To establish a process for the review of court visitor reports.

**Applicability:**

This rule applies to court visitors s and their reports in guardianship and conservatorship eases proceedings.

**Statement of the Rule:****(1) Definition and visitor requirements.**

~~(1)(A) A “visitor” is, with respect to guardianship and conservatorship proceedings, a person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings whose role is to investigate, observe, and report to the court, but is not to determine capacity of the respondent.~~

~~(1)(B) A visitor is trained in law, nursing, or social work either through life experience or through completing any training required by the court visitor program.~~

~~(1)(C) A visitor must complete any training required by the court visitor program.~~

**(2) Appointment and role of court visitor.** Upon its own initiative or motion of a party or any person interested in the welfare of an incapacitated person ~~an “interested person,” as that term is defined in Utah Code section 75-1-201,~~ the court shall appoint a court visitor in a guardianship or conservatorship proceeding to conduct an inquiry into whether to waive the respondent’s presence at the hearing under Utah Code section 75-5-303(5)(a), or to confirm a waiver of notice submitted by the respondent in a guardianship or conservatorship proceeding under Sections 75-5-309(3) or 75-5-405(1). ~~The~~ the court may appoint a court visitor in a guardianship or conservatorship proceeding to ~~conduct an inquiry into~~ do the following:

~~(2)(A) whether to waive the respondent’s presence at the hearing under Section 75-5-303(5)(a);~~

~~(2)(B) to confirm a waiver of notice submitted by the respondent in a guardianship or conservatorship proceeding under Sections 75-5-309(3) or 75-5-405(1);~~

(2)(AG) to investigate the respondent's circumstances and well-being, including when an attorney is not appointed under Utah Code section 75-5-303(5)(d);

(2)(BD) to review annual reports from the guardian and conservator or gather additional financial information;

(2)(CE) to locate guardians, conservators, and respondents;

(2)(DF) to investigate the proposed guardian's future plans for the respondent's residence under Section 75-5-303(4); ~~or~~

(2)(E) to meet with the adult protected person to determine their wishes regarding association under Section 75-5-312.5; or

(2)(EG) to conduct any other investigation or observation as directed by the court.

(3) **Motion to excuse respondent or confirm waiver of noticehearing.** The petitioner, the respondent, or any interested person seeking to excuse the respondent or confirm a waiver of hearingnotice submitted by respondent under Utah Code Section 75-5-309(3) or 75-5-405(1), shall file an ex parte motion and request to submit for decision at least 21 days prior to the hearing.

(3)(A) Upon receipt of the motion, the court shall appoint a court visitor to conduct an investigation in accordance with paragraph (2) unless a court visitor is not required under Utah Code section 75-5-303.

(3)(B) Upon appointment to conduct an inquiry into whether to excuse the respondent from the hearing, the court visitor maywill:

(3)(B)(i) interview the petitioner, the proposed guardian, and the respondent;

(3)(B)(ii) visit the respondent's present dwelling or any dwelling in which the respondent will reside if the guardianship or conservatorship appointment is made;

(3)(B)(iii) interview any physician or other person who is known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

(3)(B)(iv) confirm a waiver of notice if submitted by the respondent; and

(3)(B)(~~iv~~) conduct any other investigation the court directs.

(4) **Other inquiries.** If the court appoints a visitor under paragraphs ~~(2)(B) through (2)(G)~~, the court visitor will conduct the inquiry in accordance with the court's order ~~or of~~ appointment.

~~(5) **Language access.** If the court visitor does not speak or understand the respondent's, proposed guardian's, proposed conservator's, or petitioner's primary language, the court visitor must use an interpretation service approved by the Administrative Office of the Courts to communicate with the respondent, proposed guardian, proposed conservator, or petitioner.~~

~~(5)(6)~~ **Court visitor report.**

(5)(A) **Filing of court visitor report.** The court visitor program must file the court visitor report by the deadline set forth in the order of appointment. If a hearing has been scheduled and there is no deadline in the order of appointment, the court visitor report should be filed at least five days prior to the hearing.

~~(5)(6)(BA) **Service of the court visitor report.** Except for court visitor appointments made under paragraph (2)(CE), in accordance with Rule 5 of the Utah Rules of Civil Procedure and unless otherwise ordered by the court,~~ the court visitor program must ~~file and serve thea~~ court visitor report upon ~~all parties and upon any interested person who has requested the appointment of the court visitor~~ (1) the petitioner under Utah Code section 75-5-303 and the proposed guardian or conservator if different from the petitioner; (2) persons entitled to notice pursuant to Utah Code section 75-5-309; and (3) any person who has requested notice under Utah Code Title 75.

~~(5)(6)(CB) **Request to Submit for Decision.** Upon the filing of the court visitor report, the court visitor program must file a request to submit for decision. In cases involving a motion to excuse the respondent from a hearing, the court visitor program must also file a court-approved proposed order. The court visitor program will file with each court visitor report a request to submit for decision.~~

~~(6)(C) **Report regarding waiver of respondent's presence.** In cases involving a motion to excuse the respondent from the hearing, the court visitor will file with the report a court-approved proposed order. The report, a request to submit for decision, and a proposed order will be filed five days before the hearing.~~

(5)(D) **Order on Review of Guardianship or Conservatorship Reports ("Order on Review").** Upon filing the court visitor report, the court visitor program must include the Judicial Council-approved Order on Review, which shall be filed as a proposed order.

(6) **Objecting to the court visitor report.** Within 7 days of service of the court visitor report, a person who has been served with a copy of the report under paragraph (5)(B) may file a written objection and request for a hearing on the ground that the court visitor exceeded the scope of

the court's order of appointment. No other objections to a court visitor report are permitted. The court may rule on the objection, request briefing on the objection, and/or set a hearing on the objection.

**(7)(8) Court findingsaction on reports.**

**(78)(A) Reports regarding waiver-excusing ef-respondent's presence or confirming waiver of notice.** When a court visitor has filed a report regarding a request to excusewaive the respondent's presence at the hearing pursuant to Utah Code Section 75-5-303, or confirming a waiver of notice pursuant to Section 75-5-309(3) or 75-5-405(1), the court will issue findings and an order as to the waiver regarding the request to excuse or the waiver of notice at least two days prior to the hearing upon which the request has been made.

**(78)(B)All other reportsReport Approval and Action.** When a court visitor has filed a report and request to submit for decision involving matters other than the waiver of the respondent's presence, the court will issue findings and an order as to those matters in accordance with the timelines of Rule 3-101.review the report and take appropriate action on the report, as designated on the filed proposed Order on Review. This action may include issuing a decision, requesting further information from the court visitor or the parties, or scheduling the matter for a hearing. If the parties are attempting to resolve the issues raised in the report through mediation, the court may enter an order staying the matter until mediation is completed.

**(87) Termination of court visitor appointment.** The appointment of the court visitor terminates and the court visitor is discharged from the court visitor's duties upon the date identified in the order of appointment or as otherwise ordered by the court. The court may extend the appointment with or without a request from a party.

Effective May/November 1, 202\_9

# TAB 4

## CJA 4-202.11. Vexatious record requester (NEW)

**Notes:** During the last session ([S.B. 231](#)), the legislature created a new code section ([63G-2-209](#)) under GRAMA that outlines a detailed process for government entities to petition the State Records Committee for relief from a person the government entity deems a “vexatious requester.” Under [63G-2-702\(5\)](#), the section governing applicability of GRAMA to the judicial branch, the Judicial Council may now:

- “(a) establish a process for an administrative unit of the judicial branch to petition for relief from a person that the administrative unit claims is a vexatious requester; and
- (b) establish an appellate board to hear a petition for relief from a person that an administrative unit of the judicial branch claims is a vexatious requester.”

The court has its share of what I would consider vexatious requesters that waste a considerable amount of staff time. As such, my office is proposing a new rule. The Management Committee already hears records access appeals in accordance with [Rule 4-202.07](#). It makes the most sense to me to follow a similar process and designate the Management Committee as the “appellate board” to hear vexatious requester petitions and the Office of General Counsel as the “administrative unit” that may petition for relief.

The rule draft is very similar to [63G-2-209](#), but the process is intended to be less formal, keeping in line with how the Management Committee handles records access appeal hearings under 4-202.07.

**Rule 4-202.11. Vexatious record requester****Intent:**

To establish the rights and procedures governing requests for relief from a vexatious record requester.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:****(1) Definitions.**

(1)(A) "Committee" means the Management Committee of the Judicial Council.

(1)(B) "Executive secretary" means an individual designated as executive secretary by the Management Committee for purposes of this rule.

(1)(C) "Respondent" means a person the petitioner claims is a vexatious record requester.

(2) **Petition.** The Office of General Counsel may file a petition with the Committee to request relief from a person alleged to be a vexatious record requester.

(2)(A) The petitioner shall send a copy of the petition to the respondent and the state court administrator on the day the petition is filed with the Committee.

(2)(B) The petition shall include:

(2)(B)(i) the respondent's name, email address, and other contact information that the respondent submitted with his or her most recent record request;

(2)(B)(ii) a description of the conduct that the petitioner claims demonstrates that the respondent is a vexatious record requester; and

(2)(B)(iii) a statement of the relief the petitioner seeks.

**(3) Scheduling and notice.**

(3)(A) **Scheduling.** Except as provided in (3)(C), no later than 7 business days after receiving the petition, the executive secretary shall send a copy of the petition to the Committee chair and schedule a hearing for the Committee to consider the petition:

(3)(A)(i) at the next regularly scheduled Committee meeting falling at least 15, but no later than 30, business days after the petition is filed; or

(3)(A)(ii) at a regularly scheduled Committee meeting more than 30 business days after the petition is filed, if the Committee chair determines the Committee will not have sufficient time to hold a hearing at an earlier meeting date.

(3)(B) **Notice.** The executive secretary shall send notice of the date, time, and location of the Committee meeting at which the petition will be heard to the petitioner, respondent, and state court administrator. Public notice will be posted in accordance with paragraph (6).

(3)(C) **Denial without a hearing.** The Committee chair may direct the executive secretary not to schedule a hearing if the Committee chair and at least one other member of the Committee determine that the petition is without merit. In making that determination, the Committee chair may request that the respondent submit a written response to the petition.

(3)(C)(i) If the Committee chair declines to schedule a hearing, the executive secretary shall send notice to the petitioner, respondent, and state court administrator that the petition has been denied and the reasons for the denial.

(3)(C)(ii) The petition, a response if received, and the Committee chair's denial decision shall be provided to the Committee in advance of the next regularly scheduled Committee meeting. If a majority of the Committee disagrees with the chair's decision to deny the petition, the Committee shall direct the executive secretary to schedule a hearing. Committee discussions about the chair's denial decision may be held in an executive session.

(4) **Response.** No later than 5 business days before the hearing, the respondent shall submit to the executive secretary and the petitioner a written statement in response to the petition. The written statement may be the same document as the respondent's written response described in paragraph (3)(C). If the respondent fails to submit a written response or fails to appear at the hearing, the Committee may cancel the hearing or hold the hearing without the respondent.

(5) **Hearing.** If the Committee holds a hearing, the Committee will allow the petitioner and respondent a reasonable opportunity to present facts, authority, and argument. The order of presentation shall be decided by the Committee. The Committee may permit any person whose interests might be substantially affected by a decision to participate in the hearing. Discovery is prohibited, but the Committee may compel the production of evidence.

(6) **Open and closed meeting.** Committee deliberations are closed and may be held in an executive session, but the balance of the hearing on the petition is open and public and notice of the hearing shall be given in accordance with Rule 2-103.

(7) **Order.** No later than 10 business days after a hearing is held as scheduled under paragraph (3) or the date on which a hearing canceled under paragraph (4) was scheduled to be held, the Committee shall determine whether the petitioner has demonstrated that the respondent is a vexatious record requester and issue a signed order that grants or denies the petition in whole or in part.

(7)(A) In determining whether a petitioner has demonstrated that the respondent is a vexatious record requester, the Committee may consider:

(7)(A)(i) the interests described in Rule 4-202;

(7)(A)(ii) the number of record requests the respondent has submitted to the judicial branch, including the number of pending record requests;

(7)(A)(iii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the judicial branch;

(7)(A)(iv) the nature, content, language, and subject matter of any communications from the respondent to court employees or judicial officers related to a record request; and

(7)(A)(v) any pattern of conduct that the Committee determines to constitute:

(7)(A)(v)(a) an abuse of the right of access to information; or

(7)(A)(v)(b) substantial interference with the operations of the judicial branch; and

(7)(A)(iv) any other factor the Committee considers relevant.

(7)(B) Upon granting the petition in whole or in part, the Committee may order that the petitioner is not required to respond to or fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.

(7)(C) The Committee's order shall contain:

(7)(C)(i) a statement of the reasons for the Committee's decision;

(7)(C)(ii) if the petition is granted in whole or in part, a description of the conduct the Committee determines demonstrates that the respondent is a vexatious record requester, including any conduct the Committee finds to constitute an abuse of the right of access to information or a substantial interference with the operations of the judicial branch; and

(7)(C)(iii) a statement that the respondent or petitioner may petition for judicial review of the Committee's decision by filing a complaint in the Third Judicial District Court in accordance with the Utah Rules of Civil Procedure. The complaint must be filed no later than 30 calendar days after the date of the Committee's order.

(8) **Appeals.** A record request that the petitioner is not required to fulfill in accordance with an order issued under this rule may not be the subject of an appeal under Rule 4-202.07.

(9) The time periods in this rule may be extended by mutual agreement.

*Effective: November 1, 2023*