Rule 103. Child protective orders.

Effective: ~~***November 1, 2026***~~

(a) **Scope.** This rule applies when a juvenile court transfers a petition for a child protective order to the district court pursuant to statute.

(b) **Definition.** As used in this rule, "child" means an individual who is under 18 years old.

(c) **Hearing.** If the juvenile court issued an ex parte child protective order before transferring the petition, the district court will hold a hearing within 21 days of that protective order's issuance.

(d) **Child's Testimony**. No party may compel a child to testify unless the court finds that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony. A child's testimony may be presented in one or more of the following ways:

(1) **Recorded Statements.** A child's oral statement may be recorded and, upon motion and for good cause shown, a child's recorded statement is admissible as evidence in any court proceeding regarding the child protective order if the following conditions are met:

(A) no attorney for any party is in the child's presence when the statement is recorded;

(B) the recording is visual and aural and is recorded on film or videotape or by other electronic means;

(C) ~~the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and~~ the recording is accurate and has not been altered;

(D) each voice in the recording is identified;

(E) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify and be cross-examined by either party if requested by a party or the court;

(F) the parties and the parties' attorneys are provided an opportunity to view the recording before it is shown to the court;

(G) the court views the recording and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence; and

(H) the child is available to testify and to be cross-examined at trial, either in person or as provided in paragraph (d)(2) or (d)(3), or the court determines that the child is unavailable as a witness to testify at trial under the Utah Rules of Evidence. For purposes of this paragraph, "unavailable" includes a determination, based on medical or psychological evidence or expert testimony, that the child would suffer serious emotional or mental strain if required to testify at trial.

(2) **Recorded Testimony.** The court may order that a child's testimony be taken outside the courtroom and be recorded. That testimony is admissible as evidence, for viewing in any court proceeding regarding the allegations relating to the protective order, if the provisions of this paragraph and paragraph (d)(3) are observed:

(A) the recording is both visual and aural and recorded on film or videotape or by other electronic means;

(B) ~~the recording equipment is capable of making an accurate recording, the operator is competent, and~~ the recording is accurate and is not altered;

(C) each voice on the recording is identified; and

(D) each party is given an opportunity to view the recording before it is shown in the courtroom.

(3) **Live Testimony.** The court may order that a child's testimony may be taken in a room other than the courtroom if the following conditions are observed:

(A) Only the judge, domestic commissioner, attorneys for each party, persons necessary to operate equipment, and a counselor or therapist whose presence contributes to the child's welfare and emotional well-being may be with the child during the testimony. The parties may also be present during the child's testimony unless a party consents to be hidden from the child's view, or the court determines that the child will suffer serious emotional or mental strain if required to testify in the party's presence, or that the child's testimony will be unreliable if required to testify in the party's presence. If the court makes that determination, or if the party consents:

(i) the party may not be present during the child's testimony;

(ii) the court will ensure that the child cannot hear or see the party;

(iii) the court will advise the child prior to testifying that the party is present at the trial and may listen to the child's testimony;

(iv) the party must be permitted to observe and hear the child's testimony, and the court will ensure that the party has a means of two-way telephonic communication with counsel during the child's testimony; and

(v) normal court procedures must be approximated as nearly as possible.

(B) Only the judge, domestic commissioner, and attorneys may question the child unless the court otherwise orders; and

(C) As much as possible, persons operating equipment must be confined to an adjacent room or behind a screen or mirror so the child cannot see or hear them.

(4) **Combining recorded and live testimony prohibited.** If the court orders that the testimony of a child be taken under paragraph (d)(2), the child may not be required to testify in court at any proceeding where the recorded testimony is used.