

APPROVED

MINUTES
Utah Judicial Council
Committee on Court Forms
Administrative Office of the Courts

Webex video conferencing
October 19, 2020
12 - 2 pm

MEMBERS: PRESENT EXCUSED

Randy Dryer, <i>Chair</i>	•	
Amber Alleman	•	
Judge Randy Birch		•
Guy Galli	•	
Judge Elizabeth Lindsley	•	
Kara Mann	•	
Comm. Russell Minas	•	
Nathanael Player	•	
Clayson Quigley	•	
Stewart Ralphs	•	
Judge James Taylor	•	
Jessica Van Buren		•
Mary Westby		•

Staff:
Brent Johnson
Minhvan Brimhall

I. WELCOME AND APPROVAL OF MINUTES:

Randy Dryer welcomed the committee members to the meeting. The Committee considered the minutes from the August 8 meeting. No revisions were made to the minutes. Stewart Ralphs moved to approve the full minutes. Judge Taylor seconded the motion. The motion unanimously passed.

II. OCAP UPDATE:

The OCAP group is working on technological updates to the OCAP forms, primarily the software being used. They hope to have this completed by next month. They are currently up to date with all approved forms, including those for LPP usage. They are fine-tuning and adjusting minor items but look to have everything completed very soon.

III. MOTION TO INTERVENE IN ADOPTION CASE:

Motion:

The motion to intervene in an adoption case form allows a party to file a request to intervene prior to an adoption being finalized. If the court approves, the parties are able to see what was filed and they can file an answer once the petition has been approved. The committee discussed at length the parties who may file a motion to intervene and their relationship to the case. The committee reviewed Utah Code § 78B-6-110 which lists all parties who receive notice when someone files a motion to intervene.

The committee made minor language and formatting changes to the form. The committee included an additional paragraph for any party filing the motion to identify their relationship to the child. The committee also added lines to paragraph 3 to allow the party to explain why they are intervening in the case. The committee renumbered the paragraphs as appropriately amended.

With no further discussion, Judge Taylor moved to approve the form as amended. Stewart Ralphs seconded the motion. With no opposition, the motion passed.

Order:

The committee reviewed and made minor language and formatting changes to the form. The committee did not have additional concerns or questions with the order.

With no further discussion, Judge Taylor moved to approve the forms as amended. Nathanael Player seconded the motion. With no opposition, the motion passed.

IV. ORDER ASSIGNING COURT VISITOR TO REPORT ON REQUEST TO EXCUSE RESPONDENT FROM HEARING:

This order is from the Court Visitor Program. When a court visitor meets and interviews a person their confidentiality is very important to them, as well as candor in the interviews. When the visits occur via video there is concern about people listening in the background and telling a person what to say. The court visitors met with the Board of District Court Judges to express their concerns and have provided proposed language to the form to address the Webex or video conferencing issues. Court visitors are not always an employee of the court. They are sometimes a doctor or therapist or care provider that is providing certain reports to the courts.

Judge Taylor noted concerns with the proposed language regarding recordings made by the court visitor. The courts' records retention policy does not apply to court visitor requests and therefore court visitors maintain the recordings until the court deems it is no longer needed. The court could amend the rule to allow for retention of court visitor recordings to be retained by the court but current practice suggests that court visitors preserve their own recordings. The committee discussed and made language changes to the form. Paragraph 13 was amended to say, "A court visitor is a representative of the court. Communication and interaction with the court visitor is as if made with the judge."

The committee discussed the potential for undue influence of a defendant by someone who is not a party in the case. The committee recommended language changes to paragraph 14. Paragraph 14 was amended to say, "No person may unreasonably influence another person in their compliance with this order."

With no further discussion or additional revisions, Judge Taylor moved to approve the forms as amended. Mr. Player seconded the motion. The committee voted and the motion unanimously passed.

V. PETITION TO MODIFY DIVORCE DECREE:

- Petition and Stipulation to modify divorce decree
- Findings of fact and conclusions of law on petition to modify divorce decree
- Order on petition to modify divorce decree

Petition:

The committee discussed these forms at a previous meeting and changes have been made by the Family Laws Forms Subcommittee. The changes will apply to other petitions for divorce and petition for custody.

The committee discussed concerns that a petition addressing retirement will need to be filed each time a change occurs. Mr. Ralphs noted that unless it is addressed in a decree, a retirement may change and may need to be addressed through additional petitions. Mr. Ralphs recommends that retirement be included in a decree to avoid the need to address retirement each time a change occurs. Mr. Ralphs noted that retirement should be separated from other items in the form, as it requires substantial changes in a person's circumstance.

The committee made language and formatting changes to the form and separated retirement and non-retirement into two sections.

With no further discussions or revisions, Mr. Ralphs moved to approve the petition as modified. Mr. Player seconded the motion. The committee voted and the motion passed.

Findings:

The committee discussed and made minor language changes to the form. The committee did not have any additional concerns or recommended changes to the form.

With no further discussions or revisions, Mr. Player moved to approve the petition as modified. Judge Lindsley seconded the motion. The committee voted and the motion passed.

Order:

The committee did not express any concerns with the form and did not make recommendations for any changes.

With no further discussions or revisions, Judge Taylor moved to approve the order form as presented. Mr. Player seconded the motion. The committee voted and the motion passed.

VI. JUDICIAL RECOGNITION OF A RELATIONSHIP AS A MARRIAGE:

- Petition and stipulation to recognize a relationship as a marriage
- Findings of fact and conclusions of law on petition to recognize a relationship as a marriage
- Order on petition to recognize a relationship as a marriage

Petition:

The committee reviewed these forms in previous meetings. Revisions have been made to the form to clarify language on some of the issues and to provide for a factual basis for those issues. Additional lines have been added to each paragraph to allow for explanation. The petition allows 16-17 years old to marry with consent of the parents and the courts. Fifteen year olds are no longer allowed to marry in the State of Utah.

With no further discussions or revisions, Mr. Ralphs moved to approve the petition as amended. Judge Lindsley seconded the motion. The committee voted and the motion passed.

Findings:

The committee did not express any concerns with the form and did not make recommendations for any changes.

With no further discussions or revisions, Judge Taylor moved to approve the findings as amended. Mr. Player seconded the motion. The committee voted and the motion passes.

Order:

The committee did not express any concerns with the body of the form and did not make recommendations for any changes.

Amber Alleman noted that a licensed paralegal practitioner may not be able to file these forms. Mr. Player will research the statute and determine whether it is within the scope for an LPP to file.

With no further discussions or revisions, Mr. Ralphs moved to approve the form, subject to final review of the ability to file by a licensed paralegal practitioner. Judge Taylor seconded the motion. The committee voted and the motion passed.

VII. MISCELLANEOUS PROTECTIVE ORDER FORMS:

New forms:

- Motion to extend cohabitant protective order form
- Order extending cohabitant protective order
- Order denying motion to extend cohabitant protective order

- Motion to extend dating violence protective order
- Order extending dating violence protective order
- Order denying motion to extend dating violence protective order

Edits to existing forms:

- Motion to extend sexual violence protective order
- Order extending cohabitant protective order
- Order denying motion to extend cohabitant protective order

Cohabitant abuse protective orders used to be in effect for many years; however, they are now only effective for three years. The forms have been updated and made ready in the event that an extension is needed. The batch of forms are amended differently and do not mimic each other.

The committee did not express concerns with the modifications to the motion form. Guy Galli expressed concern about a party or clerk having to prepare a new protective order when an order is about to expire. Mr. Galli noted that in DPS the clerk will only need to change the date on the order. If this was not asked for in the original petition, it would cause a problem to the petition when an order date is changed prior to extension without a new order. Mr. Galli notes that DPS will generate a new order when a date is changed. Mr. Galli recommends that the order form be made to move this process through the DPS system. The party will receive a copy of the new order with the new date to have in their possession.

The committee expressed concern the order form is not auto generated in all the districts. Mr. Galli will reach out to all the districts to determine which ones would need to have access to DPS.

With no further discussions, Judge Taylor moved to table these forms until another meeting for the issues on the order form to be resolved. Mr. Galli will report his findings at the next meeting.

VIII. ADJOURN:

With no further items for discussion, the meeting adjourned without a motion. The meeting adjourned at 2 pm. The next meeting will be December 14, 2020, from noon to 2 pm via Webex video conferencing.