

JUDICIAL COUNCIL MEETING

AGENDA

Monday, February 25, 2013

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 9:15 a.m. Administrator's Report. Daniel J. Becker
4. 9:30 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. . . . Justice Jill Parrish
Policy and Planning Judge Greg Orme
Bar Commission. . . . John Lund, esq.
(Tab 2 - Information)
5. 9:40 a.m. Ethics Advisory Committee Update. . . . Brent Johnson
(Information)
6. 9:55 a.m. Rules for Final Action. . . . Tim Shea
(Tab 3 - Action)
7. 10:10 a.m. Daggett County – Intent to Dissolve a Justice Court. . . . Rick Schwermer
(Tab 4 - Information)
- 10:20 a.m. Break
8. 10:30 a.m. Legislative and Budget Update/Interim Highlights. . . . Rick Schwermer
(Information) Daniel J. Becker
9. 11:00 a.m. Court Interpreter Committee Update. . . . Judge Vernice Trease
(Information) Tim Shea
10. 11:20 a.m. Judicial Performance Evaluation Commission Update. . . . Joanne Slotnik
(Information)

11. 11:40 a.m. Executive Session

12:10 p.m. Lunch

12. 12:40 p.m. Adjourn

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

1. Committee Appointments
(Tab 5)

Mark Bedel
Tom Langhorne
Alyn Lunceford

2. Rules for Comment
(Tab 6)

Tim Shea

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Monday, January 28, 2013

Matheson Courthouse

Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, vice chair
Justice Jill Parrish
Hon. Judith Atherton
Hon. Glen Dawson
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. Reed Parkin
Hon. John Sandberg
Hon. Larry Steele
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Kim Allard
Nancy Volmer
Craig Bunnell
Ron Bowmaster

GUESTS:

Marissa Lang, SL Tribune

EXCUSED:

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge Steele moved to approve the minutes from the December 17, 2012 Judicial Council meeting. Judge Dawson seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reported on the following:

The local legislative meetings have been completed. The meetings were very well attended and went well.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

2013 Legislative Session and the State of the Judiciary Address. Dan mentioned that today was the first day of the 2013 Legislative Session. The State of the Judiciary address will be given this afternoon; first to the Senate and then to the House. Transportation details were provided to Council members who plan to attend.

Legislative Meetings. The legislative meetings were well attended by both legislators and judges. Mr. Becker mentioned the discussions that took place at several legislative meetings.

Courts Budget Discussions. Mr. Becker, Mr. Wahl and Mr. Schwermer met with Senator Daniel Thatcher and Representative Eric Hutchings, co-chairs of the Appropriations Committee to discuss the courts' budget requests.

Domestic and Probate E-Filing. Domestic and probate e-filing went live on January 13, 2013.

Judicial Workspace Application. The judicial workspace application is currently being tested, and it should be available for use in mid February.

Juab County Court Facility. Juab County has received approval of a loan to begin construction of a new county court facility. It is anticipated that construction of the new court facility will begin in March or April 2013.

SJI Grant Funding. The State Justice Institute (SJI) has granted funding for development of a web-based orientation for new judges.

Second District Juvenile Court Executive. Mr. Travis Erickson has been selected to fill the vacancy in the Second Juvenile Court for a court executive. He began working for the courts on January 22. Mr. Becker provided a brief background of Mr. Erickson's experience.

Utah Judicial Council Norms. Mr. Becker distributed a copy of the revised Judicial Council norms.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

Justice Parrish reported on the following:

She mentioned that the Liaison Committee has held two meetings. The meeting minutes accurately reflect the bills discussed.

Policy and Planning Meeting:

Judge Orme reported on the following:

He mentioned that the Policy and Planning meeting minutes accurately reflect the issues discussed.

Judge Orme highlighted the following in his update: 1) the consent calendar included CJA 02-0206 – effective date of rules – being recommended to be published for comment; and 2) discussion on credentials for custody evaluators, with the Policy and Planning Committee determining no changes should be made to the current credentials.

Bar Commission Report:

Mr. Lund reported on the following: 1) the Bar Commission met on Friday, January 25; 2) the public relations functions of the bar will be handled in-house with Mr. Shawn Toomey as the Bar's new in-house public relations' representative; 3) Bar Day with the legislators will be held on February 19; 4) breakfast with the legislators will be held on February 22; 5) Mr. Jim

Gilson has been selected as the next president-elect; 6) Ms. Charlotte Miller has been selected to receive the Dorothy Merrill Award at the Mid-Year Bar Conference in March 2013; 6) Ms. Cecilia Romero has been selected to receive the Raymond S. Uno Award at the Mid-Year Bar Conference in March 2013; 7) an update was provided on the pro bono and modest means programs.

5. ANNUAL REPORT TO THE COMMUNITY UPDATE: (Nancy Volmer)

Chief Justice Durrant welcomed Ms. Volmer to the meeting.

Ms. Volmer provided an update to the Council on the 2013 Annual Report to the Community.

The objectives of the publication included: 1) highlight recent accomplishments, 2) look at programs and developments for the coming year, 3) help citizens to better understand the judicial system, and 4) information tool for legislators.

The report is prepared for distribution at the beginning of the legislative session. The 2013 annual report to the community highlights the following: 1) growing confidence in Utah's courts, 2) serving the public, providing access, and staying accountable, 3) navigating the court system, 4) awards, honors, recognition, and 5) 2012 court caseload data.

6. TIME TO DISPOSITION STANDARDS FOLLOW-UP: (Kim Allard)

Chief Justice Durrant welcomed Ms. Allard to the meeting.

Ms. Allard reminded the Council that at their December meeting, she was asked to provide a purpose statement to accompany the proposed time standards.

It was noted that the requested amendment to the small claims time standard has been made.

Ms. Allard reviewed the Time to Disposition Guidelines in Utah Courts with the Council. She provided examples as to how the time to disposition guidelines are used as they relate to CourTools. Discussion took place.

Motion: Mr. Lund moved to approve the proposed Time to Disposition Guidelines. Judge McCullagh seconded the motion. The motion was amended adjusting the time period for the divorce case type from 15 months to 18 months. The amendment was accepted. The motion passed with Judge Hornak and Judge Steele voting no.

7. SIX-MONTH CASE FILING UPDATE: (Kim Allard)

Ms. Allard provided a six-month review of district court case filings and juvenile court referrals.

The following district court case filing data was highlighted: 1) criminal case filings, 5% increase; 2) felony, misdemeanor and DUI case filings, 4% increase; 3) domestic case filings, 0% change; 4) UCCJEA case filings, 128% increase; 5) general civil, 7% decrease; 6) debt collection case filings, 8% decrease; 7) contract case filings, 19% decrease; 8) judgment case filings, 3% increase; 9) probate case filings, 6% increase; 10) adoption case filings, 9% increase; 11) conservatorship case filings, 34% decrease; 12) property right case filings 12% decrease; 13) tort case filings, 1% decrease, and 14) traffic case filings, 1% decrease.

The following juvenile court referral data was highlighted: 1) overall juvenile court referrals, 10% decrease; 2) felony referrals, 0% change; 3) misdemeanor referrals, 16% decrease; 4) infraction referrals, 7% decrease; 5) contempt referrals, 8% decrease; 6) status referrals, 7%

decrease; 7) adult violation referrals, 8% increase; 9) child welfare proceeding referrals, 0% change; 10) termination of parental right referrals, 17% increase; 11) voluntary relinquishment referrals, 6% increase, and 12) domestic/probate referrals, 17% decrease.

8. GUARDIAN AD LITEM SERVICES TO DISTRICT COURT: (Debra Moore and Craig Bunnell)

Chief Justice Durrant welcomed Ms. Moore and Mr. Bunnell to the meeting.

Background was provided relative to HB 357 – Guardian ad Litem Amendments passed during the 2012 Legislative Session which repeals provisions relating to the appointment of a guardian ad litem from the office of Guardian ad Litem in a district court case, effective July 2013. The impact of HB 357 on district court cases has been discussed with various state agency and court officials.

A workgroup was formed to explore possible solutions. Discussion has taken place with the GAL Oversight Committee and the Board of District Court judges. Proposed options to provide GAL services in district court were reviewed with the Council. Discussion took place.

9. JUSTICE COURT JUDGES CERTIFICATION: (Rick Schwermer)

Mr. Schwermer presented the recommendations for justice court judge certification for: 1) Mr. Clintepious Gilmore, West Valley City Justice Court ; 2) Ms. Carolyn Howard, Saratoga Springs City Justice Court; 3) Mr. Douglas Nielsen, Lehi Justice Court; and 4) Mr. William Walker, Blanding Justice Court.

Motion: Judge McCullagh moved to approve the certification of Mr. Clintepious Gilmore, Ms. Carolyn Howard, Mr. Douglass Nielsen, and Mr. William Walker as justice court judges. Judge Hornak seconded the motion, and it passed unanimously.

10. LEGISLATIVE UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council.

He highlighted the following in his update to include: 1) noted the bills reviewed by the Liaison Committee on Friday, January 25, 2) the local legislative meeting attendance totaled 53 legislators and 76 judges, 3) the 2013 Legislative Session begins today, 4) Executive Appropriations will meet this afternoon, 5) the legislative committees begin meeting tomorrow, and 6) the Liaison Committee will meet weekly during the session.

11. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Judge Frederic Oddone has applied to be appointed as an active senior judge. Mr. Shea reported that Judge Oddone meets the minimum performance standards.

Motion: Judge Maughan moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify Judge Oddone for appointment as an active senior judge. Mr. Lund seconded the motion, and it passed unanimously.

Motion: Judge Hornak moved to enter into an executive session to discuss issues of professional competence. Judge McCullagh seconded the motion, and it passed unanimously.

12. EXECUTIVE SESSION

An executive session was entered into at this time.

13. ADJOURN

The meeting was adjourned.

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, February 12th, 2013
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Kimberly Hornak, vice chair
Hon. Judith Atherton
Hon. George Harmond
Hon. John Sandberg

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Mark Bedel
Tom Langhorne
Carol Price
Alyn Lunceford

EXCUSED:

GUESTS:

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Atherton moved to approve the minutes. Judge Harmond seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

He reported on the following items:

The Appropriation hearing regarding the courts budget was held last Tuesday. The hearing went well. Mr. Becker reviewed the budget process undertaken by the Legislature.

The request for judgeships in the Eighth District passed out of the Senate and House Judiciary Committee.

Mr. Becker mentioned the felony charges filed against the Springdale police chief and town manager for allegedly mishandling traffic fines from foreign motorists entering Zion's National Park.

3. COMMITTEE APPOINTMENTS: (Mark Bedel, Tom Langhorne, and Alyn Lunceford)

The Standing Committee on Education recommended the appointment of Professor Brian Stecklein to fill the vacancy left with the resignation of Professor Sandi Pershing for an adult

educator from a higher education institution. Background information relative to filling the vacancy was provided by Mr. Tom Langhorne.

Motion: Judge Sandberg moved to approve the appointment of Professor Brian Stecklein to fill the adult educator from a higher education institution vacancy on the Standing Committee of Education and place it on the February Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

The Board of District Court Judges recommended the following judges for consideration on the Uniform Fine and Bail Schedule Committee in filling the vacancy left by Judge Glen Dawson who is now serving on the Judicial Council and is ineligible for reappointment: 1) Judge James Blanch, Judge James Brady, and Judge James Shumate.

Ms. Debra Moore provided background information on the judges being recommended. Discussion took place.

Motion: Judge Harmond moved to approve the appointment of Judge James Brady to fill the district court judge vacancy on the Uniform Fine and Bail Schedule Committee and place it on the February Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Board of Juvenile Court Judges recommended the appointment to the Courts Facility Planning Committee of Judge Charles Behrens to fill the juvenile court judge vacancy left by the resignation of Judge Mary Noonan.

Motion: Judge Sandberg moved to approve the appointment of Judge Charles Behrens to fill the juvenile court judge vacancy on the Courts Facility Planning Committee and place it on the February Judicial Council consent calendar. Judge Atherton seconded the motion, and it passed unanimously.

4. 2012 ANNUAL SECURITY INCIDENT SUMMARY: (Carol Price)

Chief Justice Durrant welcomed Ms. Price to the meeting.

Ms. Price provided an overview of the 2012 annual security incident summary. In 2012, there were 185 reported security incidents which represented a 42% increase compared to 130 reported security incidents in 2011.

She highlighted the following incident types from the 2012 data: 1) threats, 90% increase; 2) disorderly conduct, 59% increase; and 3) inappropriate communication, 100% increase.

Additionally, she highlighted the following: 1) targets of threats and originating cases, and 2) incident locations.

Discussion took place.

Ms. Price was thanked for her update.

5. DAGGETT COUNTY – INTENT TO DISSOLVE A JUSTICE COURT: (Rick Schwermer)

Daggett County has given notice of their intent to dissolve the justice court in the Dutch John precinct of Daggett County effective February 1, 2014. At this time, no action is required.

6. **LEGISLATIVE AND BUDGET UPDATE: (Rick Schwermer and Daniel J. Becker)**

Mr. Schwermer provided a legislative update for the Management Committee. He highlighted the following: 1) the courts housekeeping bill is not out yet, 2) SB 125 – District Court Judge Amendments reported on by Mr. Becker, 3) SB 127 – Juvenile Court Judge Amendments reported on by Mr. Becker, 4) SB 111 – Electronic Filing of Traffic Citations and Accident Reports, and 5) SB 49 – Child Welfare Modification.

Motion: Judge Hornak moved to enter into an executive session at this time to discuss personnel matters. Judge Atherton seconded the motion, and it passed unanimously.

7. **JPEC UPDATE: (Daniel J. Becker and Rick Schwermer)**

This item was discussed in an executive session.

8. **APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reviewed the proposed Council agenda for the February 25 Council meeting.

Motion: Judge Hornak moved to approve the agenda for the February 25 Council meeting as amended. Judge Atherton seconded the motion, and it passed unanimously.

9. **ADJOURN**

The meeting was adjourned.

Liaison Committee Minutes

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Monday, February 4, 2013
Matheson Courthouse
Education Room

Honorable Jill Parrish, Presiding

ATTENDEES:

Hon. Brendan McCullagh
Hon. David Mortensen
Justice Jill Parrish
Hon. Larry Steele

STAFF PRESENT:

Daniel J. Becker
Lisa-Michele Church
Brent Johnson
Nancy Merrill
Debra Moore
Rick Schwermer
Ray Wahl

1. **WELCOME: (Justice Jill Parrish)**

Justice Parrish welcomed everyone to the meeting.

***Motion:** Justice Parrish moved to approve the minutes from the January 25, 2013 Liaison Committee meeting. The motion to approve the minutes was seconded and approved unanimously.*

2. **S.B 49A Child Welfare Modification (Chief Sponsor: Wayne A. Harper) (Judge Larry Steele)**

This bill modifies Title 62A, Chapter 4a, Child and Family Services, and Title 78A, Chapter 6, Juvenile Court Act, by amending procedures relating to child welfare, and making clarifying changes to uncodified laws of Utah relating to the Office of the Guardian ad Litem.

The drug testing item in the first version of the bill did not allow the judge to impose additional drug testing. This version of the bill does not impose any significant restrictions on the judge.

The bill would now allow two friends to be considered for placement after a background check. It was previously one friend. They also added the kinship option to a first cousin. Judge Steele believes a first cousin is too remote. The issue is policy.

Judge Steele and Lisa-Michele Church oppose the statute allowing for reconsideration of the parent after the entire case is closed and the child is in a permanent setting. They believe the statute undercuts the permanency protection for children. Mr. Schwermer told the committee that the Attorney General and DCFS are not opposing it the bill.

He told the committee this has a delayed effective date. There is a small fiscal note and the bill passed 28 to 1 earlier today. Mr. Schwermer believes the bill is policy. Judge Steele also opposes the section about the Guardian ad Litem. Mr. Schwermer informed the committee that last year the Guardian ad Litem asked to be taken out of district court. They claimed it would save a significant amount of money and they will spend the money on getting private Guardian ad Litem. This was never done and the Guardian ad Litem reallocated the money. The bill provides a middle ground between the district court and the juvenile court interests.

Liaison Committee's position: No Position

**3. S.B. 135 OSDC Involuntary Commitment Amendments
(Chief Sponsor: Todd Walker) (Judge David Mortensen)**

This bill modifies Title 62A, Chapter 15, Substance Abuse and Mental Health Act, by amending procedures for involuntary commitment.

This bill is a notice provision. Mr. Schwermer is concerned with line 45. This line makes it necessary to have consultation before committing. The committee believes that the word "shall" needs to be changed to "may" allowing for commitment without mandatory consultation.

Liaison Committee's position: No Position but change the word shall to may

**4. S.B. 145 County Attorney Chapter Recodification
(Chief Sponsor: Todd Walker) (Judge Brendan McCullagh)**

This bill enacts Powers and Duties of County and District Attorney.

Judge McCullagh believes the bill is moving and realigning the County and District Attorney's powers and appears to be a recodification.

Liaison Committee's position: No Position but

**5. S.B. 146 Driving Under the Influence Amendments
(Chief Sponsor: Scott K. Jenkins) (Judge Brendan McCullagh)**

This bill modifies the Traffic Code by amending provisions relating to driving under the influence.

Mr. Schwermer informed the committee that this bill is the result of a federal audit. It specifies the minimum number home confinement hours required.

Liaison Committee's position: No Position

6. **S.B. 152 Alcohol and Drug Related Offense Amendments**
(Chief Sponsor J. Stewart Adams) (Justice Brendan McCullagh)

This bill modifies provisions relating to alcohol and drug related offenses.

The committee agreed the bill is all policy.

Liaison Committee's position: No Position

7. **S.B. 155 Open Adoption**
(Chief Sponsor: Lyle W. Hillyard) (Judge Larry Steele)

This bill amends Title 78B, chapter 6, Particular Proceedings, by permitting open adoption agreements between prospective adoptive parents and birth parents or other birth relatives of a prospective adoptive child.

Judge Steele believes the bill is largely policy.

Mr. Schwermer put a small fiscal note on the bill.

Liaison Committee's position: No Position

8. **HB 80- Family Expenses Amendments**
(Chief Sponsor: Johnny Anderson) (Judge David Mortensen)

This bill allows a creditor to collect from either a husband or wife for debts incurred during their marriage.

The committee believes the bill causes problems with property division, but agreed the bill is policy.

Liaison Committee's position: No Position

9. **H.B. 92- Factual Innocence Assistance Amendments**
(Chief Sponsor: Gage Froerer) (Justice Jill Parrish)

This bill modifies the Judicial Code regarding postconviction determinations of factual innocence.

Currently if a person dies their name can be cleared but the money claim is extinguished upon death. This bill provides for a spouse to receive money.

Justice Parrish believes this bill is policy.

Liaison Committee's position: No Position

**10. H.B 287- Return of Weapons Recovered by Law
(Chief Sponsor: Kevin J. Stratton) (Judge Brendan McCullagh)**

This bill requires a law enforcement agency to return a firearm in its possession to the legal owner upon proof of ownership.

Judge McCullagh believes this bill is accomplishing the same purpose as H.B 296. The only difference is H.B. 296 is slightly broader than H.B. 287.

Liaison Committee's position: No Position but

**11. H.B. 296- Return of Weapons After Use In Court
(Chief Sponsor: Richard A. Greenwood) (Judge Brendan McCullagh)**

This bill provides criteria for the return of firearms in the possession of a law enforcement agency after use for court proceedings.

Judge McCullagh thinks the terms in the bill are not clear but likes the general idea of the bill.

Liaison Committee's position: No Position

NEXT MEETING:

February 8, 2013

12:00 P.M

Administrative Office of the Courts, Education Room (N302)

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Monday, February 8, 2013
Matheson Courthouse
Education Room

Honorable Jill Parrish, Presiding

ATTENDEES:

Hon. Brendan McCullagh
Hon. David Mortensen
Justice Jill Parrish
Hon. Larry Steele

STAFF PRESENT:

Daniel J. Becker
Brent Johnson
Nancy Merrill
Debra Moore
Rick Schwermer
Ray Wahl

1. WELCOME: (Justice Jill Parrish)

Justice Parrish welcomed everyone to the meeting.

***Motion:** Justice Parrish moved to approve the minutes from the Liaison Committee Meeting on February 4, 2013. Judge Steele seconded the motion, and the motion carried unanimously.*

2. S.B 104 Vulnerable Users Of Highways Amendments (Chief Sponsor: Todd Weiler) (Judge Brendan McCullagh)

This bill modifies the Traffic Code by enacting sentencing requirements for certain violations that impact vulnerable users of a highway.

The Board has three concerns:

Line 353, approved by the court is troublesome because of ethical concerns

Line 254, creates a vague sentencing requirement of community service directly related to improving interactions with motorists and other users of the highway

Line 356, probably has the effect of limiting the ability of the judge to fine which is probably not what the bill intended to accomplish.

***Liaison Committee's position:** No Position but address the three issues discussed.*

**3. S.B. 105 Board Of Pardons And Parole Revisions
(Chief Sponsor: Daniel W. Thatcher) (Justice Jill Parrish)**

This bill modifies the Utah Criminal Code regarding influencing a judge or a member of the Board of Pardons and Parole.

The committee expressed a drafting issue with respect to definition of immediate family.

Liaison Committee's position: No Position but

**4. S.B. 152 Alcohol And Drug Related Offense Amendments
(Chief Sponsor: John L. Valentine) (Judge Brendan McCullagh)**

This bill modifies provisions relating to alcohol and drug related offenses.

The bill has been previously reviewed by the committee and they had no concerns with it. Judge McCullagh and the committee believe the added statutory reference is positive. It clarifies the offenses.

Liaison Committee's position: No Position

**5. S.B. 156 Jail Release Amendments
(Chief Sponsor: J. Stuart Adams) (Judge Brendan McCullagh)**

This bill modifies Title 77, Chapter 20, Bail.

Judge McCullagh is concerned the bill creates a situation where theoretically the defendant may never be released.

Mr. Johnson explained how the bill is directed at a specific case where a defendant was released by the jail and then committed a crime after the release. Mr. Johnson believes there are many variables causing unanticipated problems and the entire section requires a rewrite.

The committee decided wording should be added that would allow a judge to set bail.

Liaison Committee's position: No Position but

**6. S.B. 161 Restitution Amendments
(Chief Sponsor: Curtis S. Bramble) (Judge Brendan McCullagh)**

This bill amends the Individual Income Tax Act, the Utah Code of Criminal Procedure, and provisions related to the Division of Finance to assist in, and increase, the collection of restitution for crime victims.

Judge McCullagh and the committee are satisfied with the bill. The bill is collaboration with the Salt Lake County District Attorney and the Attorney General's office.

Liaison Committee's position: No Position

**7. H.B. 28 Campus Safety Amendments (1st Sub)
(Chief Sponsor: Don L. Ipson) (Judge Brendan McCullagh)**

This bill modifies the Criminal Code by amending provisions relating to persons interfering or trespassing on property owned by an institution of higher education.

Judge McCullagh requested that Mr. Schwermer send out a comparison versions of sub bills if available. This would make it easier to see any changes. Judge McCullagh suggests since it is policy to maintain no position.

Liaison Committee's position: No Position

**8. HB 105- Serious Youth Offender Amendments
(Chief Sponsor: V. Lowry Snow) (Judge Larry Steele)**

This bill amends the procedure to transfer jurisdiction for a serious youth offender from a juvenile court to a district court.

National studies are showing the current Serious Youth Offenders bill, allowing youth offenders to be sent to adult jails, is not working well.

Judge Steele believes the bill is allowing the court more discretion to keep Juvenile offenders in Juvenile Court. The majority of the comments from the Juvenile Court are strongly in favor of passing the bill.

The bill is policy the committee agrees to take no position.

Liaison Committee's position: No Position

**9. H.B. 114- Factual Innocence Assistance Amendments
(Chief Sponsor: Brian M. Greene) (Judge David Mortensen)**

This bill declares that the regulation of firearms is reserved completely to the state and provides penalties for the prosecution of anyone attempting to enforce federal laws to the contrary.

Despite Judge Mortensen's concerns with lines 45 and 90-93, the committee took no position.

Liaison Committee's Position: No Position

**10. H.B 309- Judicial Performance Evaluation Amendments
(Chief Sponsor: V. Lowry Snow) (Judge David Mortensen)**

This bill clarifies when a judge may appear before the Judicial Performance Evaluation Commission.

The substitute bill addresses the language change we requested. Mr. Schwermer suggests that the bill gives judges the appropriate due process and it can be supported.

Liaison Committee's position: Support.

NEXT MEETING:

February 15, 2013

12:00 P.M

Administrative Office of the Courts, Council Room

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Friday, February 15, 2013
Matheson Courthouse
Council Room

Honorable Jill Parrish, Presiding

ATTENDEES:

Hon. Brendan McCullagh
Hon. David Mortensen
Justice Jill Parrish
Hon. Larry Steele

STAFF PRESENT:

Daniel J. Becker
Katie Gregory
Brent Johnson
Nancy Merrill
Debra Moore
Rick Schwermer
Tim Shea
Ray Wahl

1. WELCOME: (Justice Jill Parrish)

Justice Parrish welcomed everyone to the meeting.

Motion: Judge Steele moved to approve the minutes from the Liaison Committee Meeting on February 8, 2013. Judge Mortensen seconded the motion, and the motion carried unanimously.

2. S.B 95 Whistle Blower Amendments (Chief Sponsor: Stuart C. Reid) (Judge David Mortensen)

This bill modifies grievance procedure and the Utah Protection of Public Employees Act to address protections for employees who report certain wasteful or wrongful actions.

Mr. Shea referred to lines 74 and 75 he questioned the interpretation of the law and questioned if the law applies to the employees of the judicial branch. After some discussion Mr. Johnson confirmed that this section does not apply to the Judicial Branch. Mr. Schwermer pointed out on lines 297 to 304 where the bill may have some unintended consequences. After more discussion the committee decided not to address any issues with the bill.

Liaison Committee's Position: No Position

**3. S.B. 155 Post Adoption Agreements (1st Sub.)
(Chief Sponsor: Lyle W. Hillyard) (Judge Larry Steele)**

This bill modifies Title 62A, Chapter 4a, Child and Family Services, and Title 78B, Chapter 6, Particular Proceedings, by permitting postadoption contact agreements between prospective adoptive parents and birth parents or other birth relatives of a prospective adoptive child in the custody of the Division of Child Family Services.

Judge Steele favored the amendments that appear to be backing off enforceability. While the bill is improving, some juvenile judges have concerns. The judges think it will loosen the solidity of the relinquishments. The bill could potentially make post adoption agreements more like divorce proceedings which have constant modifications and hearings after the order. Also the juvenile judges argued for a higher fiscal note. Judge Steele recommended on line 90 change the word "may" to "shall."

After more discussion the committee decided the bill is policy and to take no position.

Liaison Committee's Position: No Position

**4. S.B. 174 Warrant Collection Amendments
(Chief Sponsor: Stephen H. Urquhart) (Judge Brendan McCullagh)**

This bill provides a method for the collection of outstanding warrants.

Judge McCullagh notes that the bill confuses what a warrant is. This bill insinuates that a warrant like an accounts receivable and can be collected at any time. Warrants are supposed to be served not collected.

Mr. Schwermer thinks the bill has been abandoned by Sen. Urquhart but suggests the committee should voice their concerns about the bill.

Liaison Committee's Position: No Position but as drafted the bill needs to be clarified as what it applies to.

**5. S.B. 188 Amendments to Adoption Requirements
(Chief Sponsor: Todd Weiler) (Judge Larry Steele)**

This bill modifies Title 62A, Chapter 4a, Child and Family Services, by modifying the Interstate Compact on the Placement of Children.

There was discussion regarding a concern that the bill may remove the check on private agencies, and DCFS will end up with the child. The committee felt that this was an issue that DCFS should address.

Liaison Committee's Position: No Position

**6. H.B. 93 Traffic Violations Amendments
(Chief Sponsor: Jeremy A. Peterson) (Judge Brendan McCullagh)**

This bill modifies the Traffic Code by amending provisions relating to accepting a plea for certain traffic violations.

The bill has taken the DUI model of prosecutor screening.

After discussion the committee decided to take no position.

Liaison Committee's position: No Position

**7. H.B. 128 Drivers License Suspension Modifications
(Chief Sponsor: Douglas V. Sagers) (Judge Larry Steele)**

This bill modifies the Traffic Code and the Public Safety Code by amending provisions relating to certain driver license suspension periods.

The bill gets rid of the distinction between the ages of younger than nineteen and nineteen to twenty one regarding suspension periods. The bill gives judges more discretion and the younger defendants a chance to get their license back sooner. The bill applies to DUI and any measurable substance.

Judge McCullagh believes the bill makes the rule clearer to understand.

Liaison Committee's Position: No Position

**8. HB 196- Judgment of Confession Amendments
(Chief Sponsor: Earl D. Tanner) (Judge David Mortensen)**

This bill prohibits entry of judgment by confession without notice or opportunity for hearing in legal proceedings.

The judges that commented on the bill believed there should be a large fiscal note on the bill. Judge Mortensen does not agree with the large fiscal note. He believes the creditors will not like the bill because of the expense and the slowing down of the process. The committee discussed how the bill would have the effect of taking away a judgment and making it a contract issue, but the bill is policy.

Liaison Committee's Position: No Position

**9. H.B. 208- Driving Under the Influence Penalties Revisions
(Chief Sponsor: Mike K. McKell) (Judge Brendan McCullagh)**

This bill modifies the Traffic Code by amending provisions relating to driving under the influence penalties.

Judge McCullagh believes the bill is trying to put an amount (\$30,000) on proving serious bodily injury. It creates a hard number to define serious bodily injury.

Mr. Schwermer suggested including a provision making it clear the bodily injury must be caused from the accident.

Liaison Committee's Position: No Position

**10. H.B 239- Jury Service Amendments
(Chief Sponsor: Craig Hall) (Judge Brendan McCullagh)**

This bill prohibits an individual from receiving a summons for trial or grand jury service more than once in a two year period.

Judge McCullagh's has concerns with two examples of summoned citizens. The person who fails to appear for the summons and the person who claims the timing will not work to appear because of prior commitments. He suggests that in these two instances the potential jurors should not be excused for two years.

The committee discussed the details of the summoning process. Mr. Shea believes that if the bill passes the courts need to reexamine how jurors are summoned

The fiscal note ended up at \$46,000.

Liaison Committee's Position: No Position

**11. H.B. 313- Rights Of Parents And Children Amendments
(Chief Sponsor: La Var Christensen) (Judge Larry Steele)**

This bill modifies Title 78A, Chapter 6, Juvenile Court Act, by permitting a parent who has been served with a petition for termination of parental rights to request a jury trial.

Judge Steele believes the main concern with the bill is the fiscal note. The fiscal note is \$1.3 million for the Judicial Branch, and the Attorney General's office was over \$900,000. The majority of the concerns are largely policy.

The committee discussed a potential administrative problem; the idea of "you may transfer to the district court" could cause delays in the process. After some discussion the committee agreed this is a policy issue and not to address it.

Liaison committee's Position: No Position

12. Other Business:

Judge Steele is not available next Friday Judge Kim Hornak may sit in.

NEXT MEETING:

February 22, 2013

12:00 P.M

Administrative Office of the Courts, Board Room (N231)

**Policy and Planning Committee
Minutes**

Minutes of the Policy and Planning Committee					
Meeting Date February 1, 2013			Meeting Room Court of Appeals Conference Room		
Committee Member	Present	Excused	Committee Member	Present	Excused
Judge Glen Dawson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Gregory Orme, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. John Lund	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Judge Reed Parkin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judge Paul Maughan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Staff: Dan Becker, Katie Gregory, Tim Shea					

Approve minutes of January 4, 2013	By Judge Orme
Motion: Approve as prepared.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Minimum time in service for leadership positions	By Dan Becker
<p>Discussion: Mr. Becker summarized the input received from judges, presiding judges and the boards of judges. The Board of Juvenile Court Judges supports the concept, but recommends a minimum of two years of service rather than three. The Board of District Court Judges did not take a position, but individual judges commented that a rule is not necessary. The comments from the judges who had been put into a leadership position shortly after being appointed reported that it was a difficult task.</p> <p>Given the mixed reviews, Mr. Becker suggested a different approach: Describe in a rule the selection of leaders based on the qualities and interests that a leader should have — such as experience on the bench, prior service on committees, interest in policy and management, and respect of one's colleagues — rather than by rotation or seniority. Judge Dawson suggested including willingness to take the extra time to serve.</p> <p>Judge Maughan said that this is still not needed, but that it is a better approach than establishing a minimum time on the bench. Judge Steele said that he is concerned about the apparent lack of interest of some Board members. Ms. Gregory explained the norms of how judges are selected for the Board of Juvenile Court Judges. Mr. Becker said that being a presiding judge or board member is important for the management of the judiciary, and judges should give careful thought to who those leaders should be. Judge Dawson said that in the Second District the presiding judge role alternates between judges from Davis County and judges from Weber County. He said their rotation system offers an opportunity to serve, but does not require a person to serve.</p> <p>Judge Parkin said that the alternative approach strikes the right tone. It does not interfere with the discretion of judges; it encourages strong candidates to come forward; it encourages service by people who want to contribute.</p>	
<p>Action: Mr. Shea will draft a rule based on the new concept and circulate it. The committee will discuss the issue again at its next meeting</p>	

Consideration of comments to rules	By Tim Shea
<p>Discussion: Mr. Shea said that the only comments received were to the amendment of Rule 4-503. The amendment is intended to require each e-filer to use a unique identifier rather than share one identifier among several lawyers. The comments showed that readers had misunderstood the intent to prohibit administrative assistants and paralegals from filing on the lawyer's behalf. Judge Maughan thought that changing "the attorney of record" to "an attorney of record" would handle the circumstance of a party with more than one lawyer. The committee agreed.</p> <p>Rule 4-508: Judge Maughan suggested striking paragraphs (7) and (8) because they are already provided by statute. Judge Orme suggested adding to the beginning of paragraph (9) (renumbered as paragraph (7)) "In addition to any statutory remedies..." And to add to the end "or as otherwise provided by law." The committee agreed.</p> <p>Mr. Shea reported that an attorney from the Self Help Center has suggested authority to allow a filer to pay the filing fee in installments. The committee expressed some interest in pursuing the idea at a future meeting.</p>	
Motion: Recommend that the Judicial Council approve the rules as further amended.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Rule 4-403. Signature stamp use.	By Tim Shea
<p>Discussion: Mr. Shea presented the amendment the committee had requested, deleting the authority of a clerk to use a judge's signature stamp to accept a plea in abeyance. Judge Parkin said it was unlikely that the judge would be available to immediately countersign the clerk's acceptance of a plea in abeyance agreement and asked whether the defendant would have to come back to get a copy with the judge's signature, or whether the defendant could assume that the order would be approved. Mr. Shea said that there would be no reason for the defendant to come back, unless the judge wanted to reject the plea in abeyance.</p>	
Motion: Recommend that the Judicial Council publish the amendment for comment.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Rule 3-414. Court security.	By Judge Orme
<p>Discussion: Judge Orme recommended that "for the purpose of proselytizing" be removed from the provision prohibiting demonstrations in a courthouse. The activities — picketing, parading, distributing leaflets, etc. — should be prohibited regardless of the purpose.</p>	
Motion: Recommend that the Judicial Council publish the amendment for comment.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

TAB 3



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *T. Shea*
Date: February 4, 2013
Re: Rules for final action

The comment period for the following rules has closed, and the Policy and Planning Committee recommends that they be approved.

Rule summary

CJA 01-0204. Executive committees. Amend. Gives the Management Committee the authority to hear procurement protest appeals. These amendments were adopted as expedited amendments and were in effect during the comment period.

CJA 04-0503. Mandatory electronic filing. Amend. Requires the electronic filer to use a personal identity with an e-filing interface, rather than someone else's.

CJA 04-0508. Guidelines for ruling on a motion to waive fees. New. Establishes guidelines for ruling on a motion to waive fees. Requires use of court-approved forms.

CJA 11-0201. Senior judges. Amend. Removes reference to the Judicial Council's attorney survey for certification of senior judges.

Comments

Here is my recommendation for wording changes:

CJA 04-0503. Mandatory electronic filing. Amend. Requires the electronic filer to use a personal identity with an e-filing interface, rather than someone else's when the documents presented to the court require an electronic signature by the party matching the personal identify, or when the court's records need to include the identify of the filer of the documents.

The generally accepted concepts here is that an electronic signature such as /S/ John Doe is only authentic when the name in the electronic signature matches the user account used to efile the document. This means that if an attorney enters a /S/ with their name, and they share their username and password with their legal assistant, the courts

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

consider the attorney that shared that username and password to be bound the document and the document is considered authentic.

When a document is efiled to the court and there is no signature required, it may still be important for the court to know who sent the document to support a trail of accountability.

Posted by Dallas Powell December 19, 2012 10:07 AM

If the intent of the amendment to 4-503 is to disallow legal assistants from e-filing on behalf of an attorney, even with the attorney's permission, it seems unnecessary and unwarranted. Counsel is already verifying the information in the document filed by virtue of her signature being affixed to the document. Requiring that the attorney be the one who actually types the keystrokes to efile adds nothing to this, any more than would requiring attorneys to personally type their own documents. I do not see the reason to require attorney time and fees to complete the ministerial act of e-filing.

Posted by Craig Parry December 18, 2012 11:10 AM

Re: CJA 4-503:

Consider replacing "the attorney of record" with "an attorney of record." This change would spare confusion when co-counsel is involved in a case.

Nathan Whittaker

Day Shell & Liljenquist, LC

Posted by Nathan Whittaker December 18, 2012 09:16 AM

The proposed change to rule CJA 04-0503 could be read as precluding an attorney from being assisted by the attorney's secretary, associate, or paralegal. A possible alternative wording: "Each attorney of record shall use a unique and personal identifier provided by the filer's service provider, and shall be responsible for all filings made using the attorney's personal identifier as though personally made by the attorney."

Posted by Leslie Slaugh December 18, 2012 08:27 AM

I agree with the proposed amendment to CJA 04-0503. I wonder if it would also be possible to assign docket numbers to documents that are filed with the district courts, as the federal court does. I have found docket numbers to be really helpful in terms of

Policy and Planning Committee

February 4, 2013

Page 3

being able to quickly and easily identify previously filed documents that are being referred to in later filings.

Posted by Sara Bouley December 17, 2012 08:18 PM

Encl. Draft rules

1 **Rule 1-204. Executive committees.**

2 Intent:

3 To establish executive committees of the Council.

4 To identify the responsibility and authority of the executive committees.

5 To identify the membership and composition of the executive committees.

6 To establish procedures for executive committee meetings.

7 Applicability:

8 This rule shall apply to the judiciary.

9 Statement of the Rule:

10 (1) The following executive committees of the Council are hereby established: (a)
11 the Management Committee; (b) the Policy and Planning Committee; and (c) the
12 Liaison Committee.

13 (2) The Management Committee shall be comprised of at least four Council
14 members, one of whom shall be the Presiding Officer of the Council. Three Committee
15 members constitute a quorum. The Presiding Officer of the Council or Presiding
16 Officer's designee shall serve as the Chair. When at least three members concur, the
17 Management Committee is authorized to act on behalf of the entire Council when the
18 Council is not in session and to act on any matter specifically delegated to the
19 Management Committee by the Council. The Management Committee is also
20 responsible for managing the agenda of the Council consistently with Rule 2-102 of this
21 Code. The Management Committee is responsible for deciding procurement protest
22 appeals.

23 (3) The Policy and Planning Committee shall recommend to the Council new and
24 amended rules for the Code of Judicial Administration and the Human Resource
25 Policies and Procedures Manual. The committee shall recommend to the Council
26 periodic and long term planning efforts as necessary for the efficient administration of
27 justice. The committee shall research and make recommendations regarding any matter
28 referred by the Council.

29 (4) The Liaison Committee shall recommend to the Council legislation to be
30 sponsored by the Council. The committee shall review legislation affecting the authority,
31 jurisdiction, organization or administration of the judiciary. When the exigencies of the

32 legislative process preclude full discussion of the issues by the Council, the Committee
33 may endorse or oppose the legislation, take no position or offer amendments on behalf
34 of the Council.

35 (5) Members of the executive committees must be members of the Council. Each
36 executive committee shall consist of at least three members appointed by the Council to
37 serve at its pleasure. The members of the Policy and Planning Committee and the
38 Liaison Committee shall elect their respective chairs annually and select a new chair at
39 least once every two years.

40 (6) Each committee shall meet as often as necessary to perform its responsibilities,
41 but a minimum of four times per year. Each committee shall report to the Council as
42 necessary.

43 (7) The Administrative Office shall serve as the secretariat to the executive
44 committees.

45

1 **Rule 4-503. Mandatory electronic filing.**

2 Intent:

3 To require that documents in district court civil cases be filed electronically.

4 To provide for exceptions.

5 Applicability:

6 This rule applies in the district court.

7 Statement of the Rule:

8 (1) Except as provided in Paragraph (2), pleadings and other papers filed in civil
9 cases in the district court on or after April 1, 2013 shall be electronically filed using the
10 electronic filer's interface.

11 (2)(A) A self-represented party who is not a lawyer may file pleadings and other
12 papers using any means of delivery permitted by the court.

13 (2)(B) A lawyer whose request for a hardship exemption from this rule has been
14 approved by the Judicial Council may file pleadings and other papers using any means
15 of delivery permitted by the court. To request an exemption, the lawyer shall submit the
16 request to the Judicial Council's General Counsel on a form approved by the Judicial
17 Council.

18 (2)(C) Pleadings and other papers in probate cases may be filed using any means of
19 delivery permitted by the court until July 1, 2013, at which time they shall be
20 electronically filed using the electronic filer's interface.

21 (3) The electronic filer shall be an attorney of record and shall use a unique and
22 personal identifier that is provided by the filer's service provider.

23

30 (4)(B) the moving party has liquid assets that can be used to pay the fee without
31 harming the party's financial position;

32 (4)(C) the moving party has credit that can be used to pay the fee without harming
33 the party's financial position;

34 (4)(D) the moving party has assets that can be liquidated or borrowed against
35 without harming the party's financial position;

36 (4)(E) expenses are less than net income;

37 (4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the
38 moving party; or

39 (4)(G) in the judge's discretion, the moving party is reasonably able to pay some part
40 of the fee.

41 (5) If the moving party is represented, the motion to waive fees may be granted in
42 proportion to the attorney's discount of the attorney fee. The moving party's attorney
43 must provide an affidavit describing the fee agreement and what percentage of the
44 attorney's normal, full fee is represented by the discounted fee.

45 (6) A motion to waive fees should be ruled upon within ten days after being filed.

46 (6)(A) If the fee is fully waived, the court, sheriff or any other provider of a service
47 offered by or through a government entity shall do what is necessary and proper as
48 promptly as if the fee had been fully paid.

49 (6)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service
50 offered by or through a government entity may require payment of the fee before doing
51 what is necessary and proper. If the service has already been performed, the court,
52 sheriff or service provider may do what is necessary and proper to collect the fee,
53 including dismissal of the case.

54 (6)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee
55 amount, the procedure to challenge the fee; the consequences of failing to pay the fee.

56 (6)(D) If the motion is rejected because of a technical error, such as failure to
57 complete a form correctly or to attach supporting documentation, the court shall notify
58 the moving party, and the moving party may file a corrected motion and affidavit within
59 14 days after being notified of the decision.

30 (7) In addition to any statutory remedies, an order granting a fee waiver may be
61 reviewed at any time if the court has jurisdiction of the case. If the court determines,
62 after waiving a fee, that the moving party is reasonably able to pay the fee, including
63 from the proceeds of a judgment, the court may modify its previous order. The court
64 may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah
65 Code Section 30-3-3, or as otherwise provided by law.

66

1 **Rule 11-201. Senior judges.**

2 Intent:

3 To establish the qualifications, term, authority, appointment and assignment for
4 senior judges and active senior judges.

5 Applicability:

6 This rule shall apply to judges of courts of record.

7 The term "judge" includes justices of the Supreme Court.

8 Statement of the Rule:

9 (1) Qualifications.

10 (1)(A) Senior Judge. To be a senior judge, a judge shall:

11 (1)(A)(i) have been retained in the last election for which the judge stood for election;

12 (1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the
13 mandatory retirement age, or, if involuntarily retired due to disability, shall have
14 recovered from or shall have accommodated that disability;

15 (1)(A)(iii) demonstrate appropriate ability and character;

16 (1)(A)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

17 (1)(A)(v) be eligible to receive compensation under the Judges' Retirement Act,
18 subject only to attaining the appropriate age.

19 (1)(B) Active Senior Judge. To be an active senior judge, a judge shall:

20 (1)(B)(i) meet the qualifications of a senior judge;

21 (1)(B)(ii) be physically and mentally able to perform the duties of judicial office;

22 (1)(B)(iii) maintain familiarity with current statutes, rules and case law;

23 (1)(B)(iv) satisfy the education requirements of an active judge;

24 (1)(B)(v) attend the annual judicial conference;

25 (1)(B)(vi) accept assignments, subject to being called, at least two days per calendar
26 year;

27 (1)(B)(vii) conform to the Code of Judicial Conduct, the Code of Judicial
28 Administration and rules of the Supreme Court;

29 (1)(B)(viii) obtain attorney survey results on the final judicial performance evaluation
30 survey conducted prior to termination of service sufficient to have been certified for

31 retention election by the ~~Judicial Council~~ regardless whether the survey was conducted
32 for self improvement or certification;

33 (1)(B)(ix) continue to meet the requirements for certification for judicial retention
34 election as those requirements are determined by the Judicial Council to be applicable
35 to active senior judges; and

36 (1)(B)(x) take and subscribe an oath of office to be maintained by the state court
37 administrator.

38 (2) Disqualifications. To be an active senior judge, a judge:

39 (2)(A) shall not have been removed from office or involuntarily retired on grounds
40 other than disability;

41 (2)(B) shall not have been suspended during the judge's final term of office or final
42 six years in office, whichever is greater;

43 (2)(C) shall not have resigned from office as a result of negotiations with the Judicial
44 Conduct Commission or while a complaint against the applicant was pending before the
45 Supreme Court or pending before the Judicial Conduct Commission after a finding of
46 reasonable cause; and

47 (2)(D) shall not have been subject to any order of discipline for conduct as a senior
48 judge.

49 (3) Term of Office.

50 (3)(A) The initial term of office of a senior judge is until December 31 of the second
51 year following appointment. The initial term of office of an active senior judge less than
52 age 75 years is until December 31 of the second year following appointment or until
53 December 31 of the year in which the judge reaches age 75, whichever is shorter. The
54 initial term of office of an active senior judge age 75 years or more is until December 31
55 of the year following appointment.

56 (3)(B) A subsequent term of office of a senior judge is for three years. A subsequent
57 term of office of an active senior judge is three years or until December 31 of the year in
58 which the judge reaches age 75, whichever is shorter. The subsequent term of office of
59 an active senior judge age 75 years or more is for one year.

30 (3)(C) All subsequent appointments begin on January 1. The Supreme Court may
61 withdraw an appointment with or without cause.

62 (3)(D) The term of office of senior judges and active senior judges in office on
63 November 1, 2005 shall continue until December 31 of the year in which their terms
64 would have expired under the former rule.

65 (4) Authority. A senior judge may solemnize marriages. In addition to the authority of
66 a senior judge, an active senior judge, during an assignment, has all the authority of the
67 office of a judge of the court to which the assignment is made.

68 (5) Application and Appointment.

69 (5)(A) To be appointed a senior judge or active senior judge a judge shall apply to
70 the Judicial Council and submit relevant information as requested by the Judicial
71 Council.

72 (5)(B) The applicant shall:

73 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered
74 by the Supreme Court; and

75 (5)(B)(ii) declare whether at the time of the application there is any complaint against
76 the applicant pending before the Supreme Court or pending before the Judicial Conduct
77 Commission after a finding of reasonable cause.

78 (5)(C) The Judicial Council may apply to the judicial performance evaluation
79 information the same standards and discretion provided for in Rule 3-111.05. After
80 considering all information the Judicial Council may certify to the Supreme Court that
81 the applicant meets the qualifications of a senior judge or active senior judge and the
82 Chief Justice may appoint the judge as a senior judge or active senior judge.

83 Judges who declined, under former Rule 3-111, to participate in an attorney survey
84 in anticipation of retirement may use the results of an earlier survey to satisfy
85 Subsection (1)(B)(viii).

86 (6) Assignment.

87 (6)(A) With the consent of the active senior judge, the presiding judge may assign an
88 active senior judge to a case or for a specified period of time. Cumulative assignments

89 under this subsection shall not exceed 60 days per calendar year except as necessary
90 to complete an assigned case.

91 (6)(B) In extraordinary circumstances and with the consent of the active senior
92 judge, the chief justice may assign an active senior judge to address the extraordinary
93 circumstances for a specified period of time not to exceed 60 days per calendar year,
94 which may be in addition to assignments under subsection (6)(A). To request an
95 assignment under this subsection, the presiding judge shall certify that there is an
96 extraordinary need. The state court administrator shall certify whether there are funds
97 available to support the assignment.

98 (6)(C) An active senior judge may be assigned to any court other than the Supreme
99 Court.

100 (6)(D) The state court administrator shall provide such assistance to the presiding
101 judge and chief justice as requested and shall exercise such authority in making
102 assignments as delegated by the presiding judge and chief justice.

103 (6)(E) Notice of an assignment made under this rule shall be in writing and
104 maintained by the state court administrator.

105

TAB 4



DAGGETT COUNTY

STATE OF UTAH

95 North 1st West
P.O. BOX 219
Manila, UT 84046

STEPHEN D. FOOTE #8945
DAGGETT COUNTY ATTORNEY
GRANT H. CHARLES #10865
DEPUTY DAGGETT COUNTY ATTORNEY
P. O. BOX 1182
DUCHESNE, UT 84021

Utah Judicial Council
c/o Administrative Office of the Courts
450 South State
P.O. Box 140241
Salt Lake City, Utah 84114-0241

January 09, 2013

RE: Notice of Dissolution of County Justice Court.

Your Honors:

Daggett County hereby gives notice, to the Judicial Council, of intent to dissolve a justice court. This notice is given pursuant to UCA Section 78A-7-123(2). The court which the county intends to dissolve is located in the Dutch John area of Daggett County. The caseload of that court would fall to the other county justice court located in Manila; also Daggett County. The effective date of the intended dissolution is February 1, 2014 unless a request is made and the Judicial Council sees fit to grant a request to shorten the time required between the county's notice of intent and the effective date of the dissolution.

If you have any questions or need other information, please feel free to call or contact me at (435) 823-1081 or gcharles@duchesne.utah.gov.

Sincerely,

Grant H. Charles
Deputy Daggett County Attorney

Commissioners:
Warren Blanchard
wblanchard@daggettcounty.org
Karen Perry
kperry@daggettcounty.org
Jerry Steglich, Chairman
jsteglich@daggettcounty.org
(435) 784-3218

Clerk/Treasurer:
Vicky McKee
(435) 784-3154
vmckee@daggettcounty.org

Auditor/Recorder:
Ken Pallesen
(435) 784-3210
kpallesen@daggettcounty.org

Assessor:
Lesa Asay
(435) 784-3222
lasay@daggettcounty.org

Sheriff:
Jerry Jorgensen
(435) 784-3235
jjorgensen@daggettcounty.org

Attorney:
Stephen Foote
stone@live.com
Grant Charles
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(435) 784-3210 x 140

TAB 5



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

February 21, 2013

Daniel J. Becker
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Mark Bedel, District Court Program Administrator

RE: Recommendation for appointment to the Judicial Council's Uniform Fine and Bail Schedule Committee

There is a vacancy on the Uniform Fine and Bail Committee, due to the end of Judge Glen Dawson's term. Judge Dawson has declined reappointment because he is now serving on the Judicial Council and wishes to give someone else the opportunity to serve on the Committee.

The Uniform Fine and Bail Schedule Committee meets annually after the legislative session to review new legislation and other requests for changes to the bail schedule, and to conduct any other business within the scope of CJA Rule 4-302. The committee's recommendations are then submitted to the Judicial Council for final action.

Rule 1-205 on standing and ad hoc committees provides that the Uniform Fine/Bail Schedule Committee shall consist of one district court judge who has experience with a felony docket, three district court judges who have experience with a misdemeanor docket, one juvenile court judge and three justice court judges.

The present members are

Judge	Representing	Term end	Number of terms
Bagley, Marvin	6 th District	2/1/2014	1
Chin, Augustus G.	Justice Court	2/26/2015	1
Connors, David	2 nd District Court	2/1/2014	2
Cullimore, Scott	Justice Court	2/26/2015	1
Higbee, Thomas	Juvenile Court 1	2/1/2013	1
McClellan, Clark	8 th District	1/23/2014	1
Whitlock, Douglas	Justice Court	2/18/2014	2

Having considered the recommendations from the Board of District Court Judges, the Management Committee recommends that Judge James Brady, District 4, be appointed to replace Judge Dawson on the Uniform Fine and Bail Schedule.

The mission of the Utah judiciary is to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

Standing Education Committee Vacancy

The rules require the committee to have one adult educator from a higher education institution.

Last year, the Standing Education Committee sought nominations to fill that vacated committee position. A search was conducted by Tom Langhorne, Director of the Judicial Institute. The Standing Committee recommended two professors to the Management Committee for consideration: Professor Sandi Pershing from the University of Utah Continuing Education Department and Brian Stecklein, a Continuing Education professor at Weber State. Both were deemed to be excellent candidates. Ultimately, Professor Pershing was finally selected.

Professor Pershing was not able to attend any of the Standing Education Committee meetings. Moreover, she recently advised Tom Langhorne she would not be able to attend meetings in the foreseeable future and asked to be relieved of her committee membership.

Rather than beginning a new search for the committee vacancy and submitting two or more names to the Management Committee, the Standing Education Committee recommends Professor Stecklein be recommended by the Management Committee and have his name placed on the Council's consent agenda.



Chief Justice Matthew Durrant
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Judicial Council Management Committee
From: Courts Facility Planning Committee
Date: February 21, 2013
Re: Courts Facility Planning Committee Membership

Judge Noonan has requested to be released from her appointment to the Courts Facility Planning Committee because of conflicts with other appointments. The Board of Juvenile Court Judges has recommended the position on the committee be filled by Judge Behrens. Judge Behrens has agreed to fill the Juvenile Court position on the committee.

The Committee is requesting the appointment of Judge Behrens to fill the Juvenile Court position on the committee.

Thank you for your consideration.

**The mission of the Utah judiciary is to provide the people an open, fair,
Efficient, and independent system for the advancement of justice under the law.**

TAB 6



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *T. Shea*
Date: February 4, 2013
Re: Rules for comment

The Policy and Planning Committee recommends that the following rules be published for comment.

Rule summary

CJA 03-0414. Court security. Amend. Removes duplicate reference to proselytizing in a courthouse.

CJA 04-0403. Signature stamp use. Amend. Deletes acceptance of pleas in abeyance from the list of documents on which the clerk can sign for the judge with a signature stamp.

Encl. Draft rules

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

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

2 Intent:

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

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

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

8 Applicability:

9 This rule shall apply to all courts.

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

11 Statement of the Rule:

12 (1) Definitions.

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

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

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

25 (2) Responsibilities of the Council.

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

29 (2)(B) As a condition for the certification of a new justice court or the continued
30 certification of an existing justice court, the justice court shall file an acceptable local

31 security plan with the Court Security Director and shall file amendments to the plan with
32 the Court Security Director as amendments are made. The local security plan shall
33 provide for the presence of a law enforcement officer or constable in court during court
34 sessions or a reasonable response time by the local law enforcement agency upon call
35 of the court.

36 (3) Responsibilities of the Administrative Office.

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

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

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

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

43
44 (3)(C) The Court Security Director shall promulgate general security guidelines to
45 assist local jurisdictions in the development of court security plans.

46 (4) Responsibilities of the court executive.

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

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

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

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

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

57 (4)(B) The local security plan for a courthouse and any amendments to it shall be
58 approved by a majority of the judges of the district of any court level regularly occupying
59 the courthouse. Voting shall be without regard to court level. As used in this subsection
60 the term "judges of the district of any court level occupying the courthouse" shall include

51 all judges of the district court of the district and all judges of the juvenile court of the
62 district regardless of whether a particular judge occupies the courthouse so long as at
63 least one judge of that court level occupies the courthouse. The term also includes the
64 justices of the Supreme Court, the judges of the Court of Appeals and all justice court
65 judges who actually occupy the courthouse.

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

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

71 (4)(E) The court clerk or probation officer, under the supervision of the court
72 executive, shall provide timely notice to transportation officers of required court
73 appearances and cancellation of appearances for individuals in custody. The court shall
74 consolidate scheduled appearances whenever practicable and otherwise cooperate with
75 transportation officers to avoid unnecessary court appearances.

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

81 (5) Responsibilities of law enforcement agencies.

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

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

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

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

90 (5)(A)(iv) provide court bailiffs; and

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

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

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

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

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

104 (6) Court bailiffs.

105 (6)(A) Qualifications. Bailiffs shall be "law enforcement officers" as defined in Section
106 53-13-103. At the discretion of the law enforcement administrator and with the consent
107 of the presiding judge, bailiffs may be "special function officers" as defined by Section
108 53-13-105.

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

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

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

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

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

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

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

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

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

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

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

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

146 (7) Weapons.

147 (7)(A) Weapons generally.

148 (7)(A)(i) A courthouse is presumed to be free of all weapons and firearms unless a
149 local security plan provides otherwise in accordance with this rule. No person may

150 possess an explosive device in a courthouse. Except as permitted by this rule, no
151 person may possess a firearm, ammunition, or dangerous weapon in a courthouse.

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

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

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

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

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

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

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

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

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

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

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

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

176 (7)(B)(iii) A court commissioner may possess in a courthouse a firearm and
177 ammunition for which the court commissioner has a concealed weapons permit, but
178 only if the court commissioner has obtained the training and annual retraining necessary

179 to qualify for a certificate issued under Section 53-5-711 and if possession is permitted
180 by the local security plan.

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

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

190 (7)(C) Firearm training requirements.

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

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

200 (8) Security devices and procedures.

201 (8)(A) Metal detectors. The use of metal detectors or other screening devices,
202 Where present, shall be used by the law enforcement agency responsible for
203 security/bailiff services. (8)(B) Physical search. Searches of persons in or about the
204 courthouse or courtroom shall be conducted at the discretion of the law enforcement
205 agency responsible for security when the local law enforcement agency has reason to
206 believe that the person to be searched is carrying a weapon or contraband into or out of
207 the courthouse or when the court so orders. No other person is authorized to conduct

198 such searches. Written notice of this policy shall be posted in a conspicuous place at
209 the entrance to all court facilities.

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

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

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

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

232 (8)(E)(ii) Court personnel shall possess their court-issued identification at all times
233 when in the courthouse or staff parking area. Court personnel may not loan their
234 identification cards, access cards or keys to others and must report any lost or missing
235 identification or access card key to the key manager or their direct supervisor as soon
236 as possible after the loss is discovered. Any lost access card will be deactivated before
237 a replacement card is issued.

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

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

244 (8)(F) In order to protect the safety and welfare of court customers, no one is
245 permitted to block the entry or exit of a courthouse and no one is permitted to picket,
246 parade, proselytize, demonstrate or distribute leaflets, pamphlets, brochures or other
247 materials for the purpose of proselytizing inside a courthouse.

248 (9) Transportation of persons in custody.

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

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

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

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

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

257 (9)(B)(iv) provide advance notice of the transportation and of any extraordinary
258 security requirements to the law enforcement agency responsible for court security, to
259 the judge, and to the bailiff;

260 (9)(B)(v) comply with any regulations of the county sheriff regarding the
261 transportation of persons in custody to court; and

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

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

265

1 **Rule 4-403. Signature stamp use.**

2 Intent:

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

5 Applicability:

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

7 Statement of the Rule:

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

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

12 (1)(B) bench warrants;

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

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

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

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

18 (1)(G) summons;

19 (1)(H) supplemental procedure orders;

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

21 ~~(1)(J) orders accepting a plea in abeyance in cases for which no appearance is~~
22 ~~required; and~~

23 ~~(1)(K)-(1)(J)~~ orders for transportation of a person in custody to a court hearing.

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

27 (3) All other documents requiring the judge's or commissioner's signature shall be
28 personally signed by the judge or commissioner, unless the judge or commissioner, on a
29 document by document basis, authorizes the clerk to use the judge's or commissioner's
30 signature stamp in lieu of the judge's or commissioner's signature. On such documents,

31 the clerk shall indicate in writing that the stamp was used at the direction of the judge or
32 commissioner and shall sign his or her name directly beneath the stamped imprint of the
33 judge's or commissioner's signature.

34