

## JUDICIAL COUNCIL MEETING

### AGENDA

Friday, March 11, 2016

Courtyard Marriott

Rimrock Ballroom

Courtyard Marriott

St George, Utah

*Chief Justice Matthew B. Durrant, Presiding*

Lunch will be served at 12:00 p.m.

1. 12:30 p.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 12:35 p.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 12:45 p.m. Administrator's Report. . . . . Daniel J. Becker
4. 1:00 p.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant  
Liaison Committee. . . . . Judge David Mortensen  
Policy and Planning . . . . . Judge Reed Parkin  
Bar Commission. . . . . John Lund, esq.  
(Tab 2 - Information)
5. 1:10 p.m. Remarks from Utah State Bar President/President Elect. . . . Angelina Tsu  
(Tab 3 - Information) Robert Rice  
John Baldwin
6. 1:30 p.m. Fifth District Update. . . . . Judge John Walton  
(Information) Judge Thomas Higbee  
Rick Davis
7. 1:50 p.m. Board of District Court Judges Update. . . . . Judge Noel Hyde  
(Information) Debra Moore
- 2:10 p.m. Break
8. 2:25 p.m. Rules for Final Action. . . . . Judge Reed Parkin  
(Tab 4 – Action) Nancy Sylvester
9. 2:35 p.m. Changes to Civil Cover Sheets/Case Types. . . . . Kim Allard  
(Tab 5 – Action)
10. 2:50 p.m. TCE Update. . . . . Russ Pearson

(Information)

Shane Bahr

11. 3:10 p.m. Legislative Budget Update/Interim Highlights. . . . . Daniel J. Becker  
(Information) Rick Schwermer
12. 4:10 p.m. Executive Session. . . . .
13. 4:30 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. Reauthorization of Committees with Ray Wahl  
June 2016 Sunset Dates  
(Tab 6)

**TAB 1**

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, February 22, 2016

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

### **ATTENDEES:**

Chief Justice Matthew B. Durrant  
Justice Thomas Lee  
Hon. Marvin Bagley  
Hon. Ann Boyden  
Hon. Mark DeCaria  
Hon. Paul Farr  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. David Mortensen  
Hon. Mary Noonan  
Hon. Reed Parkin  
Hon. Randall Skanchy  
Hon. Kate Toomey

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Debra Moore  
Dawn Marie Rubio  
Rick Schwermer  
Tim Shea  
Alison Adams-Perlac  
Nancy Sylvester  
Derek Byrne

### **GUESTS:**

### **EXCUSED:**

John Lund, esq.

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

**Motion:** Judge Skanchy moved to approve the minutes from the January 25, 2016 Judicial Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

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

Chief Justice Durrant had nothing new to report.

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

Mr. Becker reported on the following items:

Judicial Performance Evaluation Commission (JPEC). Ms. Jennifer Yim has been selected as the Executive Director of JPEC, with the upcoming retirement of Ms. Joanne Slotnik in March. Mr. Becker provided background information of her work experience.

Utah Anti-Discrimination Division. Ms. Alison Adams-Perlac has accepted a position as the director of the Anti-Discrimination Division of the Department of Labor. Mr. Becker thanked her for her service to the courts and wished her well in her new position.

Court Security Director. Mr. Chris Palmer has been selected as the new court security director who will begin working for the courts on March 14. Mr. Becker provided background information of his work experience.

2016 Legislative Session – Capital Improvements. The Building Board has approved over \$6 million dollars from the Alteration, Repairs and Improvement Budget for court buildings in FY 2017.

PEW Meeting. A preliminary meeting with members from the PEW charitable trust will be held on February 23 regarding the study to be conducted relative to juvenile court, similar to the study conducted in district court last year.

Judicial Performance Evaluation Commission – Retention Reports. Concerns were expressed by members of the Council as to the delay in notifying judges who failed any part of the minimum performance standards or judges with whom there were other concerns of the JPEC vote on their retention.

Discussion took place.

This issue will be raised with JPEC representatives during their next report to the Judicial Council.

#### **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:***

Judge Mortensen reported on the following items: 1) meetings are being held every Friday, 2) SJR 13 – Joint Resolution Amending Rules of Evidence, 3) HB 160 – Justice Court Judge Qualifications Amendments, 4) HB 297 – Bail Bond Amendments, 5) HB 148 – Protective Order Amendments, 6) SB 155 – Indigent Defense Commission, 7) no position was taken on 12 bills, 8) drafted recommendations on several bills, and 9) HB 68 – Post-Exposure Blood Testing Amendments.

##### ***Policy and Planning Meeting:***

Judge Parkin reported on the following items: 1) a meeting was held with several rules being discussed, 2) there are two rules for final action later on the agenda, 3) several rules are being recommended for public comment on the consent calendar, 4) Ms. Adams-Perlac was recognized for her work on the committee, and 5) consideration of the senior judge rule continues.

##### ***Bar Commission Report:***

Mr. Shea reported on the following items: 1) a meeting was held with Representative Craig Hall regarding HB 160 – Justice Court Judge Qualifications Amendments, 2) Justice Deno Himonas and Mr. Tim Shea presented the Paralegal Practitioner report to the Bar Commission, and 3) members of the Paralegal Practitioner Steering Committee were appointed and held their first meeting last week.

#### **5. RULES FOR FINAL ACTION: (Alison Adams-Perlac)**

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

He expressed his gratitude to Ms. Adams-Perlac for all she has done for the judiciary.

The public comment period for Rule CJA 03-0114 and Rule CJA 04-0503 has closed with no comments being received.

Rule CJA 03-114 – Judicial outreach. The rule has been amended to provide that model outreach programs shall take into account existing curricula and require the committee to propose and implement rather than develop policies that encourage judicial participation in outreach programs.

Rule CJA 04-0503 – Mandatory electronic filing. The rule has been amended to require an attorney seeking an exemption from e-filing to submit a written request to the District Court Administrator.

**Motion:** Judge Skanchy moved to approve Rule CJA 03-114 – Judicial outreach and Rule CJA 04-0503 – Mandatory electronic filing, as recommended by the Policy and Planning Committee with the suggested wording change. Judge Higbee seconded the motion, and it passed unanimously.

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

2016 Legislative Session – Appropriations Update. Mr. Becker highlighted the following items: 1) the courts base budget and expansion requests were presented in two separate hearings to the appropriation subcommittee; 2) the prioritized list of 42 requests will be considered by the Executive Offices and Criminal Justice Appropriations Subcommittee; 3) the subcommittee recommended \$23 million in ongoing funding requests and \$17 million in one-time funding requests; 4) Fourth District Juvenile Court Judge request – 6<sup>th</sup> priority; 5) the courts contracts and leases – 10<sup>th</sup> priority; 6) Fifth District Court Judge request – 13<sup>th</sup> priority; 7) general fund replacement to court complex fund – 16<sup>th</sup> priority; 8) jury/ witness/interpreter base budget increase – 18<sup>th</sup> priority; 9) money from the Operations and Maintenance Budget for the Provo Courthouse was made available, in the amount of \$549,100, for the CORIS rewrite request; 10) the \$200,000 difference for the CORIS rewrite request to be covered with a one-time request; and 11) jury/witness/interpreter supplemental request.

2016 Legislative Session – Bills highlighted:

HB 160 – Justice Court Judge Qualifications Amendments  
SB 90 – Falsification of Information in a Protective Order Proceeding  
HB 297 – Bail Bond Amendments  
HB 101 – Disabled Adult Guardianship Amendments  
SB 155 – Indigent Defense Commission  
HB 362 – Traffic Citation Hearing Amendments  
SJR 13 – Joint Resolution Amending Rules of Evidence  
SB 79 – Child Welfare Revisions  
HB 307 – Termination of Parental Rights Amendments  
SB 187 – Reclassification of Misdemeanors  
SB 181 – Judiciary Amendments  
SB 202 – Pre-Trial Release Amendments  
HB 207 – Fourth District Juvenile Court Judge  
SB 209 – Fifth District Court Judge

**7. ETHICS ADVISORY COMMITTEE UPDATE: (Judge Michele Christiansen and Brent Johnson)**

Chief Justice Durrant welcomed Mr. Johnson to the meeting.

Mr. Johnson highlighted the following in his update to the Council: 1) the committee only meets when they receive a request for an opinion, 2) one request received last year, 3) a

request by the subject of the opinion to reconsider the request was made, and the request was declined; 4) members of the committee were noted; 5) a new opinion request was recently received; and 6) books containing all ethic opinions and code of judicial conduct were prepared for all judges.

Judge Christiansen was available to respond to any questions posed by members of the Council.

Chief Justice Durrant thanked Judge Christiansen and Mr. Johnson for their update.

#### **8. WINGS UPDATE: (Karolina Abuzyarova)**

Chief Justice welcomed Ms Abuzyarova to the meeting.

Ms. Abuzyarova provided an update regarding the work of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS). WINGS is a multi-disciplinary problem-solving body, formed in April 2013, that relies on court-community partnerships to: 1) oversee the guardianship process, 2) address key policy issues, 3) improve the current system of guardianship and less restrictive alternatives, 4) engage in outreach and education, and 5) enhance the quality of care and quality of life for vulnerable adults.

She highlighted the following in her update: 1) membership of the steering committee, 2) committee accomplishments, and 3) committee activities in progress.

The WINGS accomplishments include: 1) held a statewide Guardianship Summit in November 2013; 2) published three papers from the Summit in the 2014 Utah Bar Journal; 3) court staff published guardianship web pages; 4) created an active WINGS listserv in February 2014; 5) formed the WINGS Executive Committee in February 2014; 6) international profiling of the Utah guardianship monitoring program at the Third World Congress on Adult Guardianship in May 2014; 7) adopted organization bylaws in August 2015; 8) started collaboration efforts with the Social Security Administration and the Veteran's Administration via national conference calls and information exchange; 9) established the Guardianship Signature Program, in partnership with the Utah State Bar; 10) a panel of the Utah WINGS leaders were featured on a panel at the 13<sup>th</sup> Rocky Mountain Geriatrics Conference in September 2015; 11) organized three public classes for guardianships and caregivers on: a) alternatives to guardianship, b) guardianship procedures, and c) community resources, in the Fall of 2015; and 12) participated in an interview on KUED on the guardianship monitoring program in December 2015.

The WINGS activities in progress include: 1) create an online training program for the public on guardianship resources, 2) reach out to the minorities to disseminate information and build partnerships, 3) translate the guardianship web pages into Spanish, and 4) organize live public classes on guardianship to Latino communities.

A meeting will be held next week to assess the work of the committee and determine the status and progress of current activities.

Chief Justice Durrant thanked Ms. Abuzyarova for her update to the Council.

#### **9. LEGISLATIVE AUDIT OF CASH BAIL UPDATE: (Rick Schwermer)**

Mr. Schwermer mentioned that a copy of the report entitled *A Limited Review of the Use of Cash Bail in Utah District Courts* was included in the Council materials.

The legislative auditors were asked to review the process for collecting cash bail from defendants, specifically in the Fourth District Court, to determine whether cash bail was used appropriately, and if bail proceeds went toward restitution for victims.

The legislative limited review was conducted in the following courts: 1) Second District Court, 2) Fourth District Court, 3) Seventh District Court, and 4) Eighth District Court.

Two additional questions for review at the end of the review included: 1) whether cash

bail is an effective tool to ensure a defendant's court appearance when compared with bonding, and 2) what costs are incurred when using cash bail versus bonding.

No problems were noted in the findings of the limited review. The matters were addressed by an informal letter rather than in a formal audit.

**10. EXECUTIVE SESSION**

An executive session was not held at this time.

**11. ADJOURN**

The meeting was adjourned.



**TAB 2**

# **Management Committee Minutes**

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Monday, February 22, 2016  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Randall Skanchy  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. Kate Toomey

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Debra Moore  
Dawn Marie Rubio  
Tim Shea  
Brent Johnson

**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 Toomey moved to approve the February 9, 2016 Management Committee meeting minutes. Judge Skanchy seconded the motion, and it passed unanimously.

**2. REAUTHORIZATION OF COMMITTEES WITH JUNE 2016 SUNSET DATES: (Ray Wahl)**

Mr. Wahl mentioned that all Council standing committee are to be reauthorized every six years. The following committees are up for reauthorization: 1) Resources for Self-Represented Parties Committee, 2) Standing Committee on Technology, and 3) Judicial Outreach Committee.

These committees provided updates to the Council in the following months in 2015: 1) Resources for Self-Represented Parties Committee – April 2015, 2) Standing Committee on Technology – October 2015, and 3) Judicial Outreach Committee – December 2015.

Each committee has been involved with preparing and reviewing strategic plans, and making additions and changes to the committee charge.

**Motion:** Judge Skanchy moved to approve reauthorization of the following Council Committees: 1) Resources for Self-Represented Parties Committee, 2) Standing Committee on Technology and 3) Judicial Outreach Committee. It will be placed on the March Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reviewed the proposed Judicial Council agenda for the March 11 Council meeting.

**Motion:** Judge Toomey moved to approve the agenda for the March 11 Council meeting as amended. Judge Higbee seconded the motion, and it passed unanimously.

**Motion:** Judge Skanchy moved to enter an executive session to discuss personnel matters. Judge Marx seconded the motion, and it passed unanimously.

**4. EXECUTIVE SESSION:**

An executive session was held at this time.

**5. ADJOURN**

The meeting was adjourned.

# **Liaison Committee Minutes**

# JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes  
Friday, February 19, 2016  
Matheson Courthouse  
Education Room

Honorable David Mortensen, Presiding

## ATTENDEES:

Hon. Paul Farr  
Justice Thomas Lee  
Hon. David Mortensen  
Hon. Mary Noonan

## STAFF PRESENT:

Daniel J. Becker  
Brent Johnson  
Ray Wahl  
Debra Moore  
Alison Adams-Perlac  
Dawn Marie-Rubio  
Rick Schwermer  
Nancy Sylvester  
Nancy Merrill

## EXCUSED:

## GUESTS:

Hon. Brendan McCullagh

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### 1. WELCOME: (Judge David Mortensen)

Judge Mortensen enthusiastically welcomed everyone to the meeting.

***Motion:** Justice Thomas Lee moved to approve the minutes from the Liaison Committee Meeting on February 12, 2016. Judge Mary Noonan seconded the motion. The motion passed unanimously.*

### 2. H.B. 22 1<sup>st</sup> Sub. (Buff) Civil Asset Forfeiture-Procedural Reforms (Chief Sponsor: Brian M. Greene) (Justice Thomas Lee)

This bill modifies the Forfeiture and Disposition of Property Act regarding civil forfeiture procedures.

The Committee discussed the changes that were made in the draft on line 217. They agreed to note concerns with lines 520 and 521 which interfere with the Rules of Criminal Procedure.

***Liaison Committee's position:** No position*

### 3. H.B. 160 2<sup>nd</sup> Sub. (Gray) Justice Court Judge Qualifications Amendments (Chief Sponsor: Craig Hall) (Judge Paul Farr)

This bill requires justice court judges in the first, second, and third class counties to be law school graduates.

The Committee discussed the amendments to the bill and discussed several drafting concerns on lines 15, 43, and 54.

*Liaison Committee's position: No position but address drafting concerns*

4. **H.B. 362 Traffic Citation Hearing Amendments**  
**(Chief Sponsor: Raymond P. Ward) (Judge Paul Farr)**

This bill allows a person to plead not guilty for a traffic citation and immediately request a trial de novo in district court.

The committee had concerns with the language in the draft as it interferes with the Administration of Justice and causes procedural problems.

*Liaison Committee's position: Oppose*

5. **H.B. 369 Electronic Device Location Data Amendments**  
**(Chief Sponsor: John Knotwell) (Justice Thomas Lee)**

This bill allows a government entity to collect anonymous electronic data.

The Committee noted that lines 57 and 58 interfere with Rules of Evidence.

*Liaison Committee's position: Oppose because of the rulemaking issues*

6. **H.B. 377 Grandparent Rights Amendments**  
**(Chief Sponsor: La Var Christensen) (Judge Mary Noonan)**

This bill enacts provisions concerning the visitation rights of a grandparent.

The committee discussed the following concerns and agreed the bill is policy.

- line 50 the language, "compelling cause" is confusing
- line 56 include an age cut off
- define relative or nonrelative, but not both

*Liaison Committee's position: No position but define relative*

7. **H.B. 79 4<sup>th</sup> Sub. (Pumpkin) Child Welfare Revisions**  
**(Chief Sponsor: Alvin B. Jackson) (Judge Mary Noonan)**

This bill amends a provision in the Juvenile Court Act.

The Committee discussed various concerns with the bill particularly on line 96.

*Liaison Committee's position: No position but mechanically consider finding a way to make it parallel to a trial home placement.*

**8. S.B. 111 1<sup>st</sup> Sub. (Green) Guardianship-Right Of Association  
(Chief Sponsor: Todd Weiler) (Judge David Mortensen)**

This bill amends the Utah Uniform Probate Code in relation to association between an adult ward and a relative of the adult ward or certain other individuals.

The committee suggested a fiscal note.

*Liaison Committee's position: No position*

**9. S.B. 155 Indigent Defense Commission  
(Chief Sponsor: Todd Weiler) (Judge David Mortensen)**

This bill creates the Utah Indigent Defense Commission.

The Committee agreed to support the bill and noted that having an AOC representative on the Indigent Defense Committee would be helpful.

*Liaison Committee's position: Support*

**10. S.J.R. 13 Joint Resolution Amending Rules of Evidence  
(Chief Sponsor: Stephen H. Urquhart) (Justice Thomas Lee)**

This joint resolution modifies the Utah Rules of Evidence.

The Committee discussed the problems with the draft and they had a strong concern with the implementation of the bill.

*Liaison Committee's position: No position but the bill is poorly drafted*

**11. H.B. 358 Student Privacy Amendments  
(Chief Sponsor: Jacob L. Anderegg) (Judge Mary Noonan)**

This bill enacts the Student Data Protection Act and amends provisions related to student privacy.

*Liaison Committee's position: No position*

**Other Business:** Mr. Schwermer reviewed various legislation drafts that will be coming out with the Committee.

**NEXT MEETING: February 26, 2016  
12:00 p.m., Council Room**



**TAB 3**

**Utah State Bar  
Directory Project**

> LAWYERS

Guided Search

Not sure what type of lawyer you need? Trusted Lawyer's Guided Search will walk you through the process of finding the lawyer that is right for you.

GUIDED SEARCH

Power Search

Are you familiar with the law and know exactly what you are looking for in a lawyer? Then use the Trusted Lawyer Power Search.

POWER SEARCH

Attorney Lookup

Already have an attorney in mind but want to see if they are a Trusted Lawyer? You can lookup attorneys by Bar ID, Name or Location.

LOOKUP YOUR ATTORNEY

▸ LAWYERS

## Trusted Lawyer Guided Search



About You



Assistance  
Needed



Payment  
Options



Your  
Preferences

## Tell us About You

### Where do you need Assistance?



State:

Utah



City:

Salt Lake City

Within:

10 miles



### Choose your Language



English

Spanish

American Sign Language

Arabic

Chinese Cantonese

### Financial Assistance

Check here to see if you may qualify  
for free or subsidized legal assistance.

Yes

You may qualify for free or subsidized  
legal assistance based on the information  
you provided.

Entered incorrect information?  
[Click here to try again.](#)

About You

Assistance  
Needed

Payment  
Options

Your  
Preferences

## What type of Assistance do you Need?

Pick a Category 11

- ☐ My Family
- ☐ My Finances
- ☐ My Will or Trust
- ☐ Something Else
- ☐ My Lawsuit
- ☐ My Job
- ☐ My Neighbor (or other third party)
- ☐ My Home, Condo, or Apartment
- ☐ My Rights
- ☐ My Business
- ☐ A Criminal or Traffic Charge
- ☐ My Health
- ☐ My Citizenship or Immigration

◀ BACK

CONTINUE ▶



## What type of Assistance do you Need?

Pick a Category **My Family** 69

### What type of help do you need with your family?

I would like to adopt a child

I am having issues with my spouse

My child has gotten in trouble with authorities

I need a divorce or to dissolve a domestic partnership

My former spouse or partner is not paying child support or alimony or not doing something else the divorce decree requires

I am divorced and do not get to see my kids enough

My parents need assistance

I need protection from domestic abuse

I need to officially change my name / gender.

My former spouse is not paying child support or alimony or not doing something else the divorce decree requires

I need to become a guardian for an adult (over the age of 18)

Someone is trying to take my kids away from me

I am worried about mistreatment of a child or of an elderly or disabled person

I have an issue relating to

I need to become a guardian

▸ LAWYERS

## Trusted Lawyer Guided Search



## What are you Looking for in an Attorney?

### Pick an Experience Level

- ☒ Any level of experience
- ☐ 0-3 years
- ☐ 3-10 years
- ☐ 10+ years

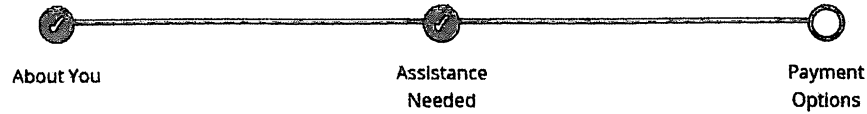
### Pick a Firm Size

- ☒ Any Firm Size
- ☐ Solo Practitioner
- ☐ Small Firm (2-10 attorneys)
- ☐ Medium Sized Firm (11-20)

Lawyer

LAWYERS

ABOUT ▾



Your  
Preferences

## What Method of Payment would you Prefer?

Pick a Payment Option 

Any payment method

- ✓ Sliding Scale Based On Income
- ✓ Flat Fee

Hourly Rate

Blended Rate -(All timekeepers at the same rate)

Contingent Fee

Retainer for Ongoing Services

← BACK

CONTINUE →



## > TRUSTED LAWYER SEARCH RESULTS











Search Criteria (9)



Sort Results By:\*



## 11 Trusted Attorneys

Name	Rating	Organization	Fee Level	Level	Compare
 Johnson, Amanda	★★★★★ 9 reviews	Simon and Grant, PC		Associate	
 Kaplan, Lawrence	★★★★☆ 3 reviews	Johnson and Hancock, LLC		Of counsel	
 Vinal, Charles	★★★★★ 5 reviews	ABC Law Firm		Partner	
 Mead, Lincoln	★★★★☆ 6 reviews	ABC Law		Senior Partner	
 Lund, John	★★★★★ 3 reviews	Parsons Behle & Latimer		Shareholder	

### LegalAssist

212 West Superior Street, Suite 503  
Chicago, IA 60654



#### Firm Size

- Medium Sized Firm (11-20)

#### Engagement Types

- Attendance/Representation At A Single Hearing
- Full Representation
- Handle A Defined Phase Of A Case
- Strategy Consultation on Business Action

> LAWYER PROFILE

Profile

Reviews

Blog



## John Lund

**Parsons Behle & Latimer**  
 201 S. Main St., Suite 1800  
 Salt Lake City, UT 84111  
 P (801) 536-6872

 [GET DIRECTIONS](#)

Original bar admit date: 1/1/2005

★★★★★ 3 reviews

### Profile

Mr. Lund focuses his practice on challenging litigation and trial work throughout the West. With a 30 year jury trial record that is both extensive and successful, he has earned his place as a go-to attorney for clients with high-stakes cases. In 2011, Mr. Lund obtained one of the largest jury verdicts ever awarded in Utah, over \$54 million in lost profit damages for his client's resort development rights. In 2014, he represented the landlord of the Park City ski terrain in successfully terminating the lease of the prior operator, which

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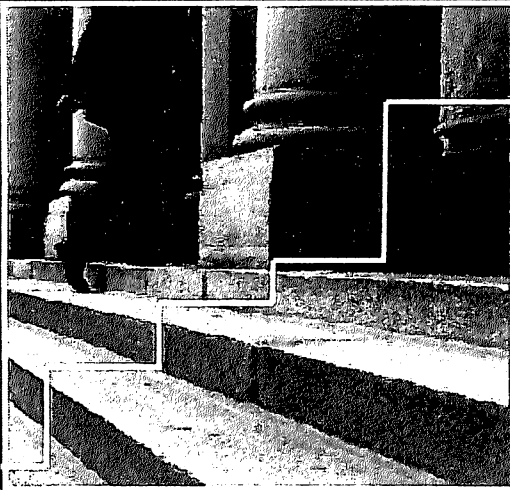
### Fields of Practice

#### Business or Non Profit Law

Formation Documents  
 Franchising  
 Incorporation & Dissolution  
 Mergers & Acquisitions  
 Other Business or Non-Profit  
 Public Finance

**Utah State Bar  
Flyer**

**The Affordable Attorneys for All Task Force of the Utah State Bar hosts:**

	<div data-bbox="750 753 1432 919"><h2>Courthouse Steps</h2></div> <div data-bbox="769 953 1367 998"><h3>Divorce &amp; Custody Document Clinic</h3></div> <div data-bbox="706 1032 1440 1193"><p>Courthouse Steps provides document preparation and legal advice on a one-time basis for a \$100 flat fee, regardless of your income. Additional assistance may be available on a sliding scale.</p></div>	
	<table border="0"><tr><td data-bbox="224 1266 730 1432"><ul style="list-style-type: none"><li>• Initial or Final Divorce Documents</li><li>• Temporary Orders</li><li>• Orders to Show Cause</li><li>• Parentage &amp; Paternity Documents</li><li>• Other documents on case-by-case basis</li></ul></td><td data-bbox="802 1251 1448 1436"><p><b>First Thursday of Every Month, 6-8:00 p.m.</b> Cash is encouraged; attorneys may or may not be able to take other forms of payment. <b>No appointment needed.</b> Utah State Bar, 645 S 200 E, Salt Lake City, 84111</p></td></tr></table>	<ul style="list-style-type: none"><li>• Initial or Final Divorce Documents</li><li>• Temporary Orders</li><li>• Orders to Show Cause</li><li>• Parentage &amp; Paternity Documents</li><li>• Other documents on case-by-case basis</li></ul>
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**Utah State Bar**  
**Amendments to Rule 14-807**

**Law School Student and Law  
School Graduate Legal  
Assistance**

# Amendments to Rule 14-807: Law School Student and Law School Graduate Legal Assistance

by Carl Hernandez and Nancy Sylvester

For those hoping to find better access to legal services in the Beehive State, and for Utah Bar members desiring to magnify the pro bono service they already offer, help is on the way. As of January 6, Special Practice Rule 14-807<sup>1</sup> was amended to allow second- and third-year law students, as well as law graduates who will be taking the Utah Bar exam within a year of graduating, to engage in the limited practice of law. What this means is more practical experiences for our soon-to-be lawyers, more people providing legal help to those of limited means, and more opportunities for lawyers to expand their pro bono reach each year.

## STUDENTS HELPING STUDENTS

The path to a better student practice rule was paved by law students who identified – and were frustrated by – the restrictive nature of Utah's rule. In fall 2014, Associate Professor Carl Hernandez at BYU's J. Reuben Clark Law School proposed a project to his Government and Legislative Practice students: identify whether the "3rd year practice rule" should be revised. Andy Gonzalez, Jessica Marinello, and Austin Martineau were among those who undertook the research and initial drafting of a better rule. "A more permissive rule," Andy Gonzalez said on behalf of the research group, "would allow

students to have more practical legal training while promoting pro-bono services and increased legal support to individuals of limited means." Professor Hernandez agreed, concluding based on the students' research that Utah's rule was one of the most restrictive in the nation.

Rule 14-807 has not been substantially amended in decades. And the BYU students' research showed Utah's law students were at a significant educational and competitive disadvantage compared to other law students across the nation. Law students outside Utah are able to participate in expansive law practice experiences both inside and outside the courtroom. Yet students at two of the nation's premiere law schools, BYU and the University of Utah's S. J. Quinney School of Law, were restricted to limited practice areas and limited court room appearances – if they were lucky. Opposing counsel still had to stipulate to the student's courtroom participation; some did not.

## A COMPARATIVE ANALYSIS

The following table provides a comparative analysis of Utah's pre-amendment rule 14-807 and other states' law student practice rules. It is not difficult to see why Utah's rule was ripe for change.

*CARL HERNANDEZ is an Associate Professor at BYU's J. Reuben Clark Law School where he teaches constitutional litigation and professional skills courses and has initiated and supervises clinical alliances with the Utah State Legislature, non-profit organizations, community-based organizations and economic development agencies.*



*NANCY SYLVESTER is an attorney in the Utah State Courts' Office of General Counsel. She provides legal counsel to judicial personnel and numerous court committees, including the Judicial Council's Standing Committee on Resources for Self-represented Parties. Her practice also includes appellate litigation.*



UTAH	OTHER JURISDICTIONS
Requires stipulation of all parties for law student appearances	49 states – Require consent of supervising attorney, client, and sometimes the court
Allows for appearances in civil, misdemeanor and administrative cases; does not specifically allow other practice activities	39 states – Permit felony appearances
Requires personal presence of supervising attorney in court for all cases	36 states – Allow student appearances without the personal presence of the supervising attorney for several categories of cases
No provisions for legal document preparation	43 states – Allow legal document preparation
No provisions for advising or negotiating	11 states – Permit advising clients or negotiating on their behalf
Requires completion of 2 years of law school	8 states – Require completion of 1st year 20 states – Require completion of 3 semesters

#### FROM CLASS PROJECT TO AMENDED RULE

In early 2015, the Judicial Council's Standing Committee on Resources for Self-represented Parties voted unanimously to advance this project as part of its 2015 Strategic Plan. To start, committee members Jaclyn Howell-Powers, S. J. Quinney School of Law, Lisa Collins, Utah Court of Appeals, and Professor Hernandez approached a veteran in clinical legal education, Professor Linda Smith of the S. J. Quinney School of Law, for her perspective. Professor Smith proposed ways in which the rule could better meet the needs of indigent community members seeking legal services. She recommended expanding, for example, the types of court cases in which law students could appear without the supervising attorney present. Previously, this was only permitted in uncontested default divorce proceedings when an appearing party was represented by a non-profit legal services organization. Now it is permitted, among other areas, in any civil case with the consent of the client.

In coordination with Elizabeth Wright, Utah Bar General Counsel, the committee members introduced the results of its project to the Bar Commission at its regularly scheduled December 2015 meeting. The Commission voted unanimously to support rule 14-807's amendments. The Utah Supreme Court, in turn, reviewed the proposed amendments, made some additional changes, and adopted the rule on an expedited basis on January 6, 2016.<sup>2</sup>

#### ALIGNING WITH THE FUTURES COMMISSION REPORT

Rule 14-807's amendments are perfectly timed. They are among the progress the Utah Bar's Futures Commission urged and has actively promoted through its implementation arm, the Affordable Attorneys for All (AAA) Task Force. In its July 29, 2015 Report, the Futures Commission wrote the following:

By any measure, progress is needed. The number of self-represented litigants in the courts is burgeoning, even as the number of case filings is dropping. People think they can and should handle a court case on their own and sometimes even think it's better to try to address their problem without taking their case to court at all. This Do-It-Yourself mentality can and often does lead to the legal equivalent of a slapdash basement remodel: It is done, but it is not done well; there might be safety issues; and it probably won't stand up to the test of time. Of course whether to do it yourself or hire it out is an individual's choice. However, in no small number, lawyers and the courts are being called upon to come in after such attempts to make repairs, often at greater expense than if they had been involved in the first place.<sup>[3]</sup>

Among many other recommendations, the Futures Commission identified that rule 14-807 should be "expanded and enhanced" to address the problems identified above.<sup>4</sup> As the Commission recognized, allowing more student practitioners to provide legal

assistance increases the pool of individuals available to assist self-represented parties. This, in turn, improves the quality of justice in Utah.

### PROFESSIONAL LAWYERING SKILLS TRAINING WITH APPROPRIATE SAFEGUARDS

The American Bar Association (ABA) recently urged accredited law schools to increase professional lawyering skills training and pro bono legal service opportunities for their students. The ABA defines professional lawyering skills as "interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation."<sup>5</sup> Amended rule 14-807 gives Utah's law schools a better way to respond to the ABA's clarion call; law students and recent law school graduates now have substantially more practice and pro bono legal service opportunities. And the amended rule still strikes an appropriate balance between student training opportunities and public protections.

14-807 practitioners may practice in the following scenarios: as part of a law school clinic or externship, or by volunteering for or being employed by a tax-exempt agency, governmental agency, or a for-profit entity. They must be supervised by an attorney authorized to practice law in the state of Utah and are not permitted to seek private clients or to provide assistance on their own without supervision. Moreover, in any work involving a client, the client must authorize in writing the activities the 14-807 practitioner will do on their behalf. If the student practitioner wishes to appear in court, they may only do so with permission of the judge, the client (if applicable), and the supervising attorney. If the client and supervising attorney consent, though, students can now appear in court in civil and misdemeanors B and C criminal matters outside the supervising attorney's presence.

Other notable practice area additions include depositions and felony criminal matters. In both, the student practitioner must work in the presence of the supervising attorney. The same is true in any Class B or C misdemeanor trial and any appellate oral argument (which also requires the court's specific approval for the law school student's or law school graduate's participation). Finally, student practitioners have an additional coursework burden when it comes to appearing in any evidentiary hearings or depositions: they must have passed a

course in Evidence and, for a criminal evidentiary hearing, both a course in Evidence and in Criminal Procedure.

### STUDENT PRACTITIONER PERSPECTIVES

Law students are eager to put the rule changes to work and receive more practical training before they leave law school. In Professor Hernandez's and others' experiences, students uniformly see these changes as a vehicle for providing greater access to justice to Utah's underrepresented minorities and those who cannot afford basic legal services. Eva Brady, a third-year law student at BYU, has seen an immediate impact on the services she and other law students provide to the Utah County Public Defender's Office where they represent juvenile offenders in detention hearings. She observed,

Under the previous law student practice rule, we were unable to find attorneys who could supervise us because doing so would require frequently leaving their jobs to attend court. Thanks to the new law student practice rule, we now hope to be able to expand our clinical experience to benefit not only our education, but also those who stand in need of legal services. This change will make it much easier for attorneys to supervise us as they will not have to frequently adjust their schedules to attend court hearings.

Vinse Grover, a third-year law student at the University of Utah, also practices at the Utah County Public Defender's Office. On assisting in felony criminal defense matters, he said,

Being in District Court helps [students] gain an appreciation of the severe consequences a defendant faces. For many defendants the consequences are extremely severe as they face loss of liberty, separation from family, loss of income, and the inability to live a normal life. Seeing this creates a sense of urgency to provide the best...representation possible to those accused.

Early rule change contributor, Andy Gonzalez, finds the amendments gratifying. "As a third-year student pursuing a career in criminal prosecution... I am confident that the newly adopted rule will allow law students to gain invaluable practical experience while ensuring greater accessibility to the legal system."



Many future Utah Bar members are trained at Utah's law schools. Rule 14-807 allows the law schools, in collaboration with current Utah Bar members, to better train our future members, thereby improving legal service delivery to the public.

### PRACTICAL GUIDELINES FOR BAR MEMBERS

Members of the Utah Bar, the courts, and legal service organizations can expect requests from Utah's law students and recent law graduates for practice opportunities. The following are some guidelines for administering rule 14-807, which contain references to the rule's subsections.<sup>6</sup>

#### Eligibility to participate Rule 14-807(c):

##### 1) Law School Students: R. 14-807(c)(1)

- a. In good standing;
- b. Completed the first year of legal studies (at least 2 semesters or the equivalent) from an ABA approved law school; AND
- c. Enrolled in a law school clinic or externship and supervised by an attorney authorized to practice law in the state of Utah; OR
- d. Volunteering for or employed by a tax-exempt or

governmental agency, or a for-profit entity, and supervised by an attorney authorized to practice law in the state of Utah;

- e. Must provide to the supervising attorney the appropriate law school certifications in Rule 14-807(e) (See the *Requirements for Law Schools* section below.);
- f. **Ineligibility to participate:** cessation of law school enrollment unless by reason of graduation. R. 14-807(h)(1)

##### 2) Law School Graduates: Rule 14-807(c)(2)

- a. Graduated from an ABA approved law school;
- b. Will be taking a regularly-scheduled bar exam within one year after graduating from law school, R. 14-807(c)(2); AND
- c. Is working under the supervision of an attorney authorized to practice law in the state of Utah;
- d. Must provide to the Bar admissions office: R. 14-807(g)
  - i. The name of his or her supervising attorney, R. 14-807(g)(1);
  - ii. A signed and dated authorization to release information to the supervising attorney regarding the law school



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graduate's Bar applicant status, R. 14-807(g)(2); and

- iii. A signed and dated letter from the supervising attorney stating that he or she has read this rule and agrees to comply with its conditions. R. 14-807(g)(3).<sup>7</sup>

**e. Ineligibility to participate:** R. 14-807(h)(2)

- i. Failure to submit a timely application for admission to the Bar under paragraph (c)(2) (within 1 year of graduating), R. 14-807(h)(2)(A);
- ii. The Bar's admissions office's or its character and fitness committee's decision to not permit the law school graduate to take a regularly-scheduled bar examination under (c)(2), R. 14-807(h)(2)(B);
- iii. Notification of the law school graduate's failure to successfully pass the bar examination under (c)(2) (within 1 year of graduating). R. 14-807(h)(2)(C); or
- iv. Failure to be admitted to practice within six months of

taking and passing the bar examination under (c)(2) (for example, not taking the oath), R. 14-807(h)(2)(D).

**Course Prerequisites for Law Students: (d)**

1. Completed Evidence Course if participating in (1) depositions, R. 14-807(d)(2), (2) evidentiary hearings, R. 14-807(d)(3), or (3) criminal evidentiary hearings. R. 14-807(d)(3).
2. Completed Criminal Procedure Course if participating in criminal evidentiary hearings. R. 14-807(d)(3).

Permissible Activities: Rule 14-807(d)

**Prerequisites:**

- a. The client (if there is one) and supervising attorney must consent in writing to each activity, and the supervising attorney remains fully responsible for the manner in which the activities are conducted. R. 14-807(d)
- b. If appearing in court, the supervising attorney's and the client's written consent and approval, along with the law school student's certification, must be filed in the record of the case and must be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.<sup>8</sup> R. 14-807(d)(3)
- c. The student or graduate must orally advise the court at the initial appearance in a case that he or she is certified to appear pursuant to this rule. R. 14-807(d)(3)

**Activities:**

*Under the general supervision of the supervising attorney and subject to their final approval:* Rule 14-807(d)(1)

1. Negotiate for and on behalf of the client, but the student or graduate must obtain the approval of the supervising attorney regarding the plan of negotiation;
2. Give legal advice to the client, but the student or graduate must obtain the approval of the supervising attorney regarding the legal advice to be given.

*Under the direct supervision and in the personal presence of the supervising attorney:* Rule 14-807(d)(2)

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3. Appear on behalf of the client in depositions.

*Supervision requirements vary with the following activities:*

Rule 14-807(d)(3)<sup>9</sup>

4. Appear in any court or before any administrative tribunal in this state.

- a. **Civil Matters.** In civil cases in any court, the supervising attorney is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising attorney's absence. R. 14-807(d)(3)(A)

- b. **Felony or Class A Misdemeanor Criminal Matters on Behalf of the Prosecuting Authority.** In any felony or Class A misdemeanor prosecution matter in any court, the supervising attorney must be personally present throughout the proceedings. R. 14-807(d)(3)(B)

- c. **Infraction or Class B or Class C Misdemeanor Criminal Matters on Behalf of the Prosecuting Authority.** In any infraction or Class B or Class C misdemeanor matter in any court with the written approval of the supervising attorney, the supervising attorney is not required to be personally present in court; however, the supervising attorney must be personally present during any Class B or Class C misdemeanor trial. R. 14-807(d)(3)(C)

- d. **Felony or Class A Misdemeanor Criminal Defense Matters.** In any felony or Class A misdemeanor criminal defense matter in any court, the supervising attorney must be personally present throughout the proceedings. R. 14-807(d)(3)(D)

- e. **Infraction or Class B or Class C Misdemeanor Criminal Defense Matters.** In any infraction or Class B or Class C misdemeanor criminal defense matter in any court, the supervising attorney is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney must be personally present during any Class B or Class C misdemeanor trial. R. 14-807(d)(3)(E)

- f. **Appellate Oral Argument.** In any appellate oral argument,

the supervising attorney must be personally present and the court must give specific approval for the law school student's or law school graduate's participation in that case. R. 14-807(d)(3)(F)

5. Perform the following activities under the general supervision of the supervising attorney, but outside his or her personal presence: Rule 14-807(d)(4)

- a. Prepare pleadings and other documents to be filed in any matter in which the law school student or law school graduate is eligible to appear, provided such pleadings or documents are reviewed and signed by the supervising attorney, R. 14-807(d)(4)(A);

- b. Prepare briefs and other documents to be filed in appellate courts of this state, provided such documents are reviewed and signed by the supervising attorney, R. 14-807(d)(4)(B);

- c. Provide assistance to indigent inmates of correctional institutions or other persons who request such assistance

## *American College of Trial Lawyers* INDUCTS **ANDREW M. MORSE**

We congratulate our colleague and friend, Andrew M. Morse, who was inducted as a Fellow into the American College of Trial Lawyers during the 2016 ACTL Spring Meeting. Andrew has a long-standing reputation as one of Utah's most experienced trial lawyers.

Andrew M. Morse  
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801.322.9183

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in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court; if there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be reviewed and signed by the attorney of record and the supervising attorney, R. 14-807 (d)(4)(C); and

- d. Perform other appropriate legal services, but only after prior consultation with the supervising attorney, R. 14-807 (d)(4)(D).

#### Requirements for Law Schools: Rule 14-807(e)

1. The law school's dean, or his or her designee, must certify to the supervising attorney that
  - a. the student is in good standing;
  - b. has completed the first year of law school studies;
  - c. in the case of a clinic or externship, that the student is enrolled in a law school clinic or externship;
  - d. if the student will be participating in depositions or evidentiary hearings, that the student has passed an evidence course; and
  - e. if the student will be participating in criminal evidentiary hearings, that the student has passed a criminal procedure course.

#### Requirements for Supervising Attorneys:

1. The supervising attorney is responsible for ensuring that the conduct of the law school student or law school graduate complies with this rule, which includes verifying the participant's eligibility. R. 14-807(f)
2. The supervising attorney remains fully responsible for the manner in which the activities are conducted. R. 14-807(d) (See generally the *Rules of Professional Conduct*.)

The supervising attorney may or may not be required to be personally present, but must generally supervise all activities. R. 14-807(d) (See *Permissible Activities* section above for specifics.)

#### Conclusion

It is our hope that Utah Bar members will embrace the opportunity to improve law students' practical skills by providing the supervision needed for them to practice. By so doing, the profession will improve as a whole as rising new lawyers bring more practical experience helping the under- and unrepresented to the community. And with this experience, it stands to reason, will come innovative ideas for growing community demand for competent legal representation. This can only improve the quality of and access to legal services in Utah long-term.

1. Special Practice Rule 14-807 may be found on the Utah State Courts website at <http://www.utcourts.gov/resources/rules/ucja/view.html?rule=ch14/08%20Special%20Practice/USB14-807.html>.
2. Although still subject to amendment following the comment period, the spirit of reform and expansiveness in rule 14-807 will not change.
3. FUTURES COMMISSION OF THE UTAH STATE BAR, REPORT AND RECOMMENDATIONS ON THE FUTURE OF LEGAL SERVICES IN UTAH 4 (2015), [https://www.utahbar.org/wp-content/uploads/2015/07/2015\\_Futures\\_Report\\_revised.pdf](https://www.utahbar.org/wp-content/uploads/2015/07/2015_Futures_Report_revised.pdf). According to the same report,

In 2014, there were 66,717 debt collection cases filed in the Utah courts. In 98% of those cases, the defendant was not represented by counsel and in 96% of the cases, the plaintiff had an attorney. That means more than 60,000 Utahns defended for themselves in court. In the 7,770 eviction cases filed that year, 97% of the people defended themselves. In the family law arena, out of the 14,088 divorce cases filed in 2014, there were attorneys for both parties in only 12% of the cases. In 29% of the cases, just one party had an attorney and in 60% of the cases, neither party had counsel. The number of people trying to represent themselves in the Utah courts is not only large, it is steadily increasing.

*Id.* at 9.

4. *Id.* at 6.
5. AMERICAN BAR ASSOCIATION, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2015-2016 16 (2015), (emphasis omitted), [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2015\\_2016\\_aba\\_standards\\_for\\_approval\\_of\\_law\\_schools\\_final\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2015_2016_aba_standards_for_approval_of_law_schools_final_authcheckdam.pdf).
6. These guidelines are not intended to be an official statement on rule 14-807. They are provided only for practitioners' convenience. Amended Rule language can be found at [www.utcourts.gov/resources/rules/comments/USB14-807%2001112016.pdf](http://www.utcourts.gov/resources/rules/comments/USB14-807%2001112016.pdf).
7. A sample letter to the Bar admissions office is available at [http://www.utcourts.gov/howto/family/gc/signature/docs/Bar\\_Admissions\\_Certificate.pdf](http://www.utcourts.gov/howto/family/gc/signature/docs/Bar_Admissions_Certificate.pdf).
8. A Certificate of Eligibility approved by the Board of District Court Judges for use by rule 14-807 practitioners is available at [http://www.utcourts.gov/howto/family/gc/signature/docs/Certificate\\_of\\_Eligibility.pdf](http://www.utcourts.gov/howto/family/gc/signature/docs/Certificate_of_Eligibility.pdf).
9. The court may at any time and in any proceeding require the supervising attorney to be personally present for such period and under such circumstances as the court may direct. R. 14-807 (d)(3)(G)

**TAB 4**



## 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:** Nancy Sylvester *Nancy D. Sylvester*  
**Date:** March 7, 2016  
**Re:** Senior Judge Assignments under CJA Rule 3-108

In response to discussions between the Judicial Council and presiding judges about the use of senior judges and the accompanying budgetary considerations, Policy and Planning created two assignment categories under Rule 3-108(3) for the use of senior judges: 1) exigent circumstances and 2) non-exigent circumstances. The enclosed amendments to Rule 3-108 have been approved by the Policy and Planning Committee.

Under the exigent circumstances category in subsection (3)(A), the committee defined exigent circumstances as those that "are unforeseen and result in a prolonged absence or vacancy of a sitting judge, including but not limited to, unexpected retirement, disability, leave of absence, assignment to the bench at a different court level, or death." Exigent circumstances exist up to the point that Management Committee approves a plan for ongoing coverage, which may be around 30 days. The presiding judge must immediately notify the Management Committee chair of an assignment under this category and within 14 days,

develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

In order to assign the senior judge to ongoing coverage, the presiding judge must obtain the Management Committee's approval.

Under the non-exigent circumstances category in subsection (3)(B), the process is largely the same except that the presiding judge may not use a senior judge for ongoing coverage unless he or she first submits—and the Management Committee approves—a plan for using the senior judge. This is in contrast to the exigent circumstances category in that in exigent circumstances the presiding judge has around 30 days' coverage before a plan for ongoing coverage must be in place.

In approving this rule, Policy and Planning also examined Rule 11-201, which has provisions under paragraph (6) for the use of senior judges. The committee determined that the rules are in conflict since Rule 11-201(6) discusses the use of active senior judges in both

**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.**

## Senior Judge Assignments under Rule 3-108

March 7, 2016

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extraordinary and non-extraordinary circumstances. If the Judicial Council is interested in using the amended language of Rule 3-108 to govern these situations, this may be a good time to closely examine what roles the Supreme Court and the Judicial Council should play in the senior judge process and then draft the rules accordingly.

**Rule 3-108. Judicial assistance.****Intent:**

To establish the authority, procedure and criteria for judicial assistance.

**Applicability:**

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

**Statement of the Rule:**

(1) Criteria for requesting assistance. Judicial assistance shall be provided only for the following reasons:

(1)(A) to prevent the occurrence of a backlog in the court's calendar;

(1)(B) to reduce a critical accumulated backlog;

(1)(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(1)(D) to replace a sitting judge who is absent because of assignment as a tax judge, illness or to replace the judges in that location because of disqualification in a particular case;

(1)(E) to handle essential cases when there is a vacant judicial position;

(1)(F) to handle high priority cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(1)(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level; and

(1)(H) in district court, to handle cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration.

(2) Criteria for transferring or assigning judges. The transfer or assignment of judges shall be based upon the following priorities:

(2)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(2)(B) active judges before active senior judges with consideration of the following:

(2)(B)(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, who are physically situated nearest and are most convenient to that court;

(2)(B)(ii) active senior judges from a court of equal jurisdiction to the court in need who are physically situated nearest and are most convenient to that court;

(2)(B)(iii) active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to it;



(2)(B)(iv) active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;

(2)(B)(v) active or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court who are not in close proximity;

(2)(C) availability;

(2)(D) expenses and budget.

(3) Assignment of active judges.

(3)(A) In exigent circumstances.

(3)(A)(i) Exigent circumstances are unforeseen and result in a prolonged absence or vacancy of a sitting judge, including but not limited to, unexpected retirement, disability, leave of absence, assignment to the bench at a different court level, or death.

(3)(A)(ii) For purposes of this rule, exigent circumstances generally exist up to 30 days.

(3)(A)(iii) In exigent circumstances, the presiding judge may assign a senior judge temporarily to cover after exhausting all internal coverage options, including seeking coverage from sitting judges inside or outside the district.

(3)(A)(iv) If the presiding judge assigns a senior judge temporarily due to exigent circumstances, the presiding judge shall immediately notify the chair of the Judicial Council's Management Committee.

(3)(A)(v) Within 14 days of assigning a senior judge, the presiding judge shall develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

(3)(A)(vi) The presiding judge shall obtain the Management Committee's approval prior to assigning a senior judge to provide ongoing coverage.

(3)(B) In non-exigent circumstances.

(3)(B)(i) Non-exigent circumstances are those that do not qualify as exigent under subparagraph (3)(A)(i).

(3)(B)(ii) If a presiding judge anticipates the need for senior judge coverage, the presiding judge shall develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

(3)(B)(iii) The presiding judge shall obtain the Management Committee's approval prior to assigning a senior judge to provide coverage under non-exigent circumstances.

(3)(C) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in

74 which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in  
75 Rule 6-103(4) of the Utah Code of Judicial Administration, assignment by the supervising tax judge with  
76 the approval of the presiding officer of the Council.

77 | (3)(BD) Any active judge of a court of record may serve temporarily as the judge of a court  
78 with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer  
79 of the Council or assignment by the state court administrator with the approval of the presiding officer of  
80 the Council.

81 | (3)(CE) The assignment shall be made only after consideration of the judge's calendar. The  
82 assignment may be for a special or general assignment in a specific court or generally within that level of  
83 court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments  
84 in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state  
85 court administrator shall report all assignments to the Council on an annual basis.

86 | (3)(DE) Requests for the assignment of a judge shall be conveyed, through the presiding  
87 judge, to the person with authority to make the assignment under paragraphs (A) and (B). A judge who is  
88 assigned temporarily to another court shall have the same powers as a judge of that court.

89 (4) Notice of assignments made under this rule shall be made in writing, a copy of which shall be  
90 sent to the state court administrator.

91 (5) Schedule of trials or court sessions. The state court administrator, under the supervision of the  
92 presiding officer of the Council, may schedule trials or court sessions and designate a judge to preside,  
93 assign judges within courts and throughout the state, reassign cases to judges, and change the county for  
94 trial of any case if no party to the litigation files timely objections to the change.

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

Intent:

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

Applicability:

This rule shall apply to judges of courts of record.

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

Statement of the Rule:

(1) Qualifications.

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

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

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

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

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

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

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

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

(1)(B)(ii) be a current resident of Utah;

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

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

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

(1)(B)(vi) attend the annual judicial conference;

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

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

(1)(B)(ix) obtain attorney survey results on the final judicial performance evaluation survey conducted prior to termination of service sufficient to have been certified for retention election regardless whether the survey was conducted for self-improvement or certification;

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

(1)(B)(xi) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and

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

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

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

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

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

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

(3) Term of Office.

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

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

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

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

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

(5) Application and Appointment.

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

(5)(B) The applicant shall:

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

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

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

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

(6) Assignment.

(6)(A) With the consent of the active senior judge, the presiding judge may assign an active senior judge to a case or for a specified period of time. Cumulative assignments under this subsection shall not exceed 60 days per calendar year except as necessary to complete an assigned case.

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

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

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

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

**TAB 5**



# Administrative Office of the Courts

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

February 18, 2016

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

## MEMORANDUM

**TO:** Judicial Council Members  
**FROM:** Kim Allard  
**RE:** Changes to Civil Case Types

### Overview

The following changes are recommended to case types utilized by district courts and in some circumstances, justice courts. The recommendations stem from a desire to more accurately track and report civil cases.

### Recommended Changes for Jurisdictional Reasons

Category	Filing Fee	Case Type		Action and Reason
		Existing	New	
Civil	Sch	<del>Small Claims de novo</del> District	---	Expire. This case type referred to small claims de novo cases appealed from district court decisions. These no longer exist. All small claims de novo cases will now be filed as Small Claims de novo (see below) Cover Sheet for Civil Actions already updated.
Civil	Sch	Small Claims de novo <del>Justice</del>	---	Remove the word "Justice" in title. Cover Sheet for Civil Actions already updated.
Civil	Sch	Small Claims- <del>Parking</del> Gov Only	---	Rename Small Claims-Parking to Small Claims-Gov Only and provide training for gov filers to use this case type. This will allow us to easily see the difference between "retail" small claims filers and governmental filers. Training can be part of eFiling training in justice courts. No change to Cover Sheet for Civil Actions

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

### Recommended Changes to More Precisely Capture and Report the Nature of Civil Cases

The following changes to general civil and tort case types will provide better information to the court and its users. Filers often choose the Miscellaneous Civil case type perhaps because a more descriptive case type description is unavailable. In FY14, 1,419 civil actions were filed under Miscellaneous Civil. A review of these cases shows automobile torts and fraud cases. The addition of these case types should significantly reduce the number of cases filed as Miscellaneous Civil.

The new case types are based on those recommended by the "State Court Guide to Statistical Reporting" published by the Court Statistics Project. Originally published in 2003 and revised in 2013, the "Guide" is a standardized reporting framework used to compare court cases among all state courts. Each year, AOC analysts submit data to the Court Statistics Project on behalf of the district, juvenile, justice and appellate courts.

#### General Civil Category

		Case Type Name		
Category	Filing Fee	Existing	New	Action and Reason
Civil	Sch	-----	Contract: Employment Dispute: Discrimination	Add case type.
Civil	Sch	-----	Contract: Fraud	Add case type.

#### Recommended Changes to Guardianship Case Types

		Case Type Name		
Category	Filing Fee	Existing	New	Action and Reason
Probate	\$360	Guardianship	Guardianship - Adult	Expire and add new case type. Whether a guardianship is for an adult or minor is determined by the party type. ICP or PTP = Adult; Min = Minor. This information is not readily available.
Probate	\$35	Guardianship of a Disabled Adult Child	-----	Statutory; no change.
Probate	\$360	Guardianship	Guardianship - Minor	Expire and add new case type.



## Torts Category

Category	Filing Fee	Case Type		Action and Reason
		Existing	New	
Tort	Sch	Malpractice	----	Expire.
Tort	Sch		Malpractice-Medical	Add case type. In sample of FY14 cases, 83% were medical in nature.
Tort	Sch		Malpractice-Legal; Other	Add case type. In sample of FY14 cases, 17% were legal in nature.
Tort	Sch	----	Automobile Tort	Add case type. Many cases currently filed as Property Damage will be filed here.
Tort	Sch	----	Intentional Tort	Add case type.
Tort	Sch	----	Premises Liability	Add case type. Includes slip and fall cases
Tort	Sch	Asbestos	Product Liability	Rename only.
Tort	Sch	----	Slander/Libel/Defamation	Add case type.

## Next Steps

Upon Judicial Council approval, changes in case types will be introduced to judges and staff during the spring legislative updates. Changes will be made in the annual CORIS legislative update release and will be communicated to all approved eFiling Service Providers to update their electronic filing systems. A revised Cover Sheet for Civil Actions will be posted for those not electronically filing.

All changes should be made by July 1, 2016. This will result in the new case types being routinely used in fiscal year 2017.

**Attachment:** Sample Revised Cover Sheet for Civil Actions.

## Cover Sheet for Civil Actions

**Interpretation.** If you do not speak or understand English, contact the court at least 3 days before the hearing or mediation, and an interpreter will be provided.

**Interpretación.** Si usted no habla o entiende el Inglés contacte al tribunal por lo menos 3 días antes de la audiencia o mediación y le proveerán un intérprete.

### Plaintiff/Petitioner (First)

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### First Plaintiff/Petitioner's Attorney\*

Name \_\_\_\_\_

Bar Number \_\_\_\_\_

### Plaintiff/Petitioner (Second)

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### Second Plaintiff/Petitioner's Attorney\*

Name \_\_\_\_\_

Bar Number \_\_\_\_\_

### Defendant/Respondent (First)

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### First Defendant/Respondent's Attorney\*

Name \_\_\_\_\_

Bar Number \_\_\_\_\_

### Defendant/Respondent (Second)

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### Second Defendant/Respondent's Attorney\*

Name \_\_\_\_\_

Bar Number \_\_\_\_\_

\*Attorney mailing and email addresses provided by Utah State Bar.

Total Claim for Damages \$ \_\_\_\_\_ Jury Demand ☐ Yes ☐ No \$250 ☐ Jury Demand

**Schedule of Fees: §78a-2-301** (Choose ☒ all that apply. See Page 2 for fees for claims other than claims for damages.)

#### PLEASE CHOOSE ONE:

- ☐ No monetary damages are requested (URCP 26: Tier 2)
- ☐ Damages requested are \$50,000 or less (URCP 26: Tier 1)
- ☐ Damages requested are more than \$50,000 and less than \$300,000 (URCP 26: Tier 2)
- ☐ Damages requested are \$300,000 or more (URCP 26: Tier 3)
- ☐ Damages are unspecified.  
Circle one: Tier 1    Tier 2    Tier 3
- ☐ This case is exempt from URCP 26. (E)

#### — — MOTION TO RENEW JUDGMENT — —

\$37.50 ☐ Damages \$2000 or less

\$92.50 ☐ Damages \$2001 - \$9,999

\$180 ☐ Damages \$10,000 & over

#### — — COMPLAINT OR INTERPLEADER — —

\$75 ☐ Damages \$2000 or less

\$185 ☐ Damages \$2001 - \$9999

\$360 ☐ Damages \$10,000 & over

\$360 ☐ Damages Unspecified

#### — — COUNTERCLAIM, CROSS CLAIM, THIRD PARTY CLAIM, OR INTERVENTION — —

\$55 ☐ Damages \$2000 or less

\$150 ☐ Damages \$2001 - \$9999

\$155 ☐ Damages \$10,000 & over

Choose ☒ One

**Fee Case Type**  
**----- APPEALS -----**

- \$360 ☐ Administrative Agency Review  
 Sch ☐ Tax Court (Appeal of Tax Commission Decision)  
 Court: Refer to Clerk of Court upon filing.  
 \$225 ☐ Civil (78A-2-301(1)(h)) (E)  
 \$225 ☐ Small Claims Trial de Novo (E)

**----- GENERAL CIVIL -----**

- Sch ☐ Civil Rights  
 \$0 ☐ Civil Stalking (E)  
 \$360 ☐ Condemnation/Eminent Domain  
 Sch ☐ Contracts  
 Sch ☐ Contract: Employment Dispute  
 Discrimination  
 Sch ☐ Contract: Fraud  
 Sch ☐ Debt Collection  
 Sch ☐ Eviction/Forcible Entry and Detainer (E)  
 \$360 ☐ Extraordinary Relief/Writs  
 \$360 ☐ Forfeiture of Property (E)  
 Sch ☐ Interpleader  
 Sch ☐ Lien/Mortgage Foreclosure  
 Sch ☐ Malpractice  
 Sch ☐ Miscellaneous Civil  
 \$360 ☐ Post Conviction Relief: Capital (E)  
 \$360 ☐ Post Conviction Relief: Non-capital (E)  
 Sch ☐ Property Damage  
 Sch ☐ Property Rights  
 \$360 ☐ Registry Removal (Gun/White Collar)  
 Sch ☐ Sexual Harassment  
 Sch ☐ Water Rights  
 Sch ☐ Wrongful Death  
 \$360 ☐ Wrongful Lien  
 Sch ☐ Wrongful Termination

**----- TORTS -----**

- Sch ☐ Automobile Tort  
 Sch ☐ Intentional Tort  
 Sch ☐ Malpractice-Medical Tort  
 Sch ☐ Malpractice-Legal; Other Tort  
 Sch ☐ Premises Liability FKA Personal Injury  
 Sch ☐ Product Liability (Asbestos)  
 Sch ☐ Slander/Libel/Defamation

**----- DOMESTIC RELATIONS -----**

- \$0 ☐ Cohabitant Abuse (E)  
 \$310 ☐ Marriage Adjudication (T2)  
 \$310 ☐ Custody/Visitation/Support (T2)  
 \$310 ☐ Divorce/Annulment (T2)  
☐ Check if child support, custody or parent-  
 time will be part of decree  
☐ Check if Temporary Separation filed

- Fee Case Type**  
 \$8 ☐ Vital Statistics §26-2-25 per form  
 \$115 ☐ Counterclaim: Divorce/Sep Maint.  
 \$115 ☐ Counterclaim: Custody/Visit/Support  
 \$155 ☐ Counterclaim: Paternity/Grandparent  
 Visitation  
 \$100 ☐ Domestic Modification (T2)  
 \$100 ☐ Counter-petition: Domestic Mod.  
 \$360 ☐ Grandparent Visitation (T2)  
 \$360 ☐ Paternity/Parentage (T2)  
 \$310 ☐ Separate Maintenance (T2)  
 \$35 ☐ Temporary Separation (E)  
 \$35 ☐ Uniform Child Custody Jurisdiction &  
 Enforcement Act (UCCJEA) (E)  
 \$35 ☐ Uniform Interstate Family Support Act  
 (UIFSA) (E)

**----- JUDGMENTS -----**

- \$35 ☐ Foreign Judgment (Abstract of) (E)  
 \$50 ☐ Abstract of Judgment/Order of Utah  
 Court/Agency (E)  
 \$30 ☐ Abstract of Judgment/Order of Utah  
 State Tax Commission (E)  
 \$35 ☐ Judgment by Confession (E)

**----- PROBATE -----**

- \$360 ☐ Adoption/Foreign Adoption (T2)  
 \$8 ☐ Vital Statistics §26-2-25 per form  
 \$360 ☐ Conservatorship (T2)  
 \$360 ☐ Estate Personal Rep (T2)  
 \$35 ☐ Foreign Probate/Child Custody Doc. (E)  
 \$360 ☐ Gestational Agreement (T2)  
 \$360 ☐ Guardianship-Adult (T2)  
 \$360 ☐ Guardianship-Minor(T2)  
 \$35 ☐ Guardianship-Disabled Adult Child (T2)  
 \$0 ☐ Involuntary Commitment (T2)  
 \$360 ☐ Minor's Settlement (T2)  
 \$360 ☐ Name Change (T2)  
 \$360 ☐ Supervised Administration (T2)  
 \$360 ☐ Trusts (T2)  
 \$360 ☐ Unspecified (Other) Probate (T2)

**----- SPECIAL MATTERS -----**

- \$35 ☐ Arbitration Award (E)  
 \$0 ☐ Determination Competency-Criminal (E)  
 \$135 ☐ Expungement (E)  
 \$0 ☐ Hospital Lien (E)  
 \$35 ☐ Judicial Approval of Document: Not  
 Part of Pending Case (E)  
 \$35 ☐ Notice of Deposition in Out-of-State  
 Case/Foreign Subpoena (E)  
 \$35 ☐ Open Sealed Record (E)

**TAB 6**

MEMORANDUM

TO: Judicial Council

FROM: Ray Wahl, Deputy State Court Administrator *RW*

RE: Reauthorizing Standing Committees

DATE: February 22, 2016

On the above date, three Standing Committee reauthorizations were reviewed with the Management Committee. They were:

Standing Committee on Resources for Self-Represented Parties

Standing Committee on Technology

Standing Committee on Judicial Outreach

Each Standing Committee has provided a detailed report to the Council within the last six month. All have updated their strategic plans and have initiatives they want to move forward with . The Management Committee is recommending that these three standing committees be reauthorized. Please let me know if you have further questions.

**ADDITIONAL COUNCIL  
MEETING HANDOUTS**

**BILLS CONSIDERED BY THE JUDICIAL COUNCIL'S LIAISON COMMITTEE - 2016 LEGISLATIVE SESSION**

<b>BILL #</b>	<b>BILL TITLE</b>	<b>FISCAL NOTE</b>	<b>LIAISON'S POSITION</b>	<b>PASSED/ FAILED</b>
HB 16	Offender Registry Amendments		No position	PASSED
HB 19	Expungement Amendments		No Position but address line 199	FAILED
HB 22	Civil Asset Forfeiture-Procedural Reforms		No position but address lines 255,281,282,290	FIXED
HB 22 1 <sup>st</sup> (Sub)	Civil Asset Forfeiture-Procedural Reforms		No position	FAILED
HB 66	Online Parenting Course For Divorcing Families		No position	PASSED
HB 68	Post-Exposure Blood Testing Amendments		No position but due process concerns	FIXED
HB 68 1 <sup>st</sup> (Sub)	Post-Exposure Blood Testing Amendments		No position but fiscal note and point out the concerns with procedure	FIXED, PASSED
HB 73	Medical Cannabis Act		No position but address the concerns that the Committee discussed	FAILED
HB 101	Disabled Adult Guardianship Amendments		No position but	FIXED
HB 101 1 <sup>st</sup> (Sub)	Disabled Adult Guardianship Amendments		No position but address concerns	FIXED, PASSED
HB 114	Controlled Substance Reporting		No position but address lines 108,174,400	FIXED, PASSED
HB 118	Public Access Of Administration Action Amendments		No position	PASSED
HB 128	Alimony Amendments		No position	FAILED
HB 137	Restitution For Incarceration Costs Amendments		No position	FAILED
HB 148	Protective Order Amendments		No position but delete line 64	FIXED, PASSED
HB 160	Justice Court Judge Qualification Amendments		Oppose	SUBBED
HB 160 1 <sup>st</sup> (Sub)	Justice Court Judge Qualification Amendments		No position but the Committee will wait to see the new language in the next draft	SUBBED

HB 160 2 <sup>nd</sup> (Sub)	Justice Court Qualifications Amendments		No position but address drafting concerns	SUBBED
HB 160 3 <sup>rd</sup> (Sub) HB 160s3amd	Justice Court Amendments Justice Court Amendments		No position, Judge Farr opposed Support	AMENDED, PASSED
HB 197	Lobbying By State Agencies Amendments		No position	FAILED
HB 206	Human Trafficking Safe Harbor Amendments		No position but clarify the intent	FIXED
HB 206 1 <sup>st</sup> (Sub)	Human Trafficking Safe Harbor Amendments		No position	PASSED
<b>HB 207</b>	<b>Fourth District Court Juvenile Judge</b>		<b>Support</b>	<b>PASSED</b>
HB 214	Protective Order Modifications	x	No position but fiscal note	SUBBED
HB 214 1 <sup>st</sup> (Sub)	Protective Order Modifications		No position	SUBBED
HB 214 2 <sup>nd</sup> (Sub)	Protective Order Modifications		No position the bill is policy	FAILED
HB 234	Adoptive And Foster Parents Amendments		No position	FAILED
HB 262	Campus Anti-Harassment Act		No position	FAILED
HB 297	Bail Bonds Amendments		Oppose the bill interferes with the administration of justice	AMENDED, MERGED, FAILED
HB 298	Unlawful Commerce in Arms		No position	SUBBED, PASSED
HB 307	Termination of Parental Rights Amendments		No position but clarify language	FAILED
HB 311	White Collar Crime Registry Amendments		No position	PASSED
HB 358	Student Privacy Amendments		No position	SUBBED, PASSED
HB 362	Traffic Citation Hearing Amendments		Oppose	FAILED
HB 369	Electronic Device Location Data Amendments		Oppose because of the rulemaking issues	FIXED, PASSED
HB 377	Grandparent Rights Amendments	\$24,000	No position but define relative	PASSED
HB 381	Standards For Issuance Of Summons		Support in concept, BUT address the problematic language	FIXED



HB 381 1 <sup>st</sup> (Sub)	Standards For Issuance Of Summons		Support the concept but address the specific Rule 6 reference and point out the concern on line 37	FIXED, PASSED
HB 403 1 <sup>st</sup> (Sub)	Asbestos Litigation Transparency Act		Oppose the bill is procedure	FIXED, PASSED
HB 469	Divorce Amendments		Oppose the bill interferes with the administration of justice	FAILED
HB 470	Criteria For Determination Of Alimony		No position but address line 147	FAILED
HB 405 1 <sup>st</sup> (Sub)	Juvenile Sentencing Amendments		No position the bill is policy	SUBBED, PASSED
HB 426	Child Support Regarding Rape Offender		No position but "request" is the wrong word	FAILED
	<b>SENATE BILLS</b>			
SB 42	Public Notice Of Court Recording	\$4,100 1X	No position	PASSED
SB 45	Compulsory Education Revisions		No position	SUBBED
SB 45 1 <sup>st</sup> (Sub)	Compulsory Education Revisions		No position but	FAILED
SB 79	Child Welfare Revisions		No position	SUBBED
SB 79 1 <sup>st</sup> (Sub)	Child Welfare Revisions		No position but point out continuing drafting issues	SUBBED
SB 79 4 <sup>th</sup> (Sub)	Child Welfare Revisions	\$7,300	No position but mechanically consider finding a way to make it parallel to a trial home placement.	PASSED
SB 75	Water Rights Adjudication Amendments		No position	PASSED
SB 82	Child Welfare Modifications		No position but address lines 328, 624	FIXED, PASSED

SB 90	Falsification Of Information In A Protective Order Proceeding		No position but fiscal note and address lines 191 and 174	FIXED
SB 90 2 <sup>nd</sup> (Sub)	Falsification of Information In A Protective Order Proceeding		No position but point out the concerns	SUBBED
SB 90 3 <sup>rd</sup> (Sub)	Falsification Of Information In A Protective Order Proceeding		No position but address concerns	SUBBED
SB 90 4 <sup>th</sup> (Sub)	Falsification Of Information In A Protective Order Proceeding	\$150,600	No position but oppose language on line 177	FIXED, FAILED
SB 96	Uniform Deployed Parents Custody And Parent-Time Act		No position	PASSED
SB 100	Traffic Fines Amendments		No position but	FAILED
SB 105	Bail Amendments		No position	PASSED
SB 107	Hate Crimes Amendments		No position but raise the concern on line 157-159	FAILED
SB 111	Guardianship-Right Of Association		No position	SUBBED
SB 111 1 <sup>st</sup> (Sub)	Guardianship-Right Of Association		No position	PASSED
SB 155	Indigent Defense Commission		Support	SUBBED
SB 155 1st	Indigent Defense Commission		Support	SUBBED
<del>HB</del> 155 2 <sup>nd</sup> (Sub) SB	Indigent Defense Commission		Support	SUBBED, PASSED
SB 182 1 <sup>st</sup> (Sub)	Sales And Use Tax Revisions		No position but clarify contradicting language	FIXED, SUBBED
SB 182 2 <sup>nd</sup> (Sub)	Sales And Use Tax Revisions		No position	PASSED
SB 187 1 <sup>st</sup> (Sub)	Reclassification of Misdemeanors		Support the concept	PASSED
SB 202	Pre-Trial Release Amendments		Support	SUBBED, MERGED
SB 202s1	Pre-Trial Release Amendments		Support	MERGED, FAILED

SB 206	Cohabitant Abuse Procedures Act Revisions		No position	PASSED
SB 209	Fifth District Court Judge		Support	FAILED
SB 210	Unmanned Aircraft Amendments		No position but add court facilities to the correction sections of the draft	FIXED, FAILED
SB 213	Small Claims Court Amendments		No position but raise the drafting problems	SUBBED
SB 213s1	Small Claims Court Amendments		No position	FAILED
SB 243	Indigent Counsel in Private Parental Termination Cases		No position but clarify language	FIXED, MERGED INTO SB 155, PASSED
SJR 13	Joint Resolution Amending Rules of Evidence		No position but the bill is poorly drafted	SUBBED
SJR 13 s1	Joint Resolutions Amending Rules of Evidence		No position but the language is unclear	FAILED
SB 158	Juvenile Court and Child Abuse Amendments			PASSED

Stats 2016 leg session

10.11.0.239

No position 26  
NO position but on 27 -

but was fixed  
in 25

Supported 8 bills  
6 passed