

JUDICIAL COUNCIL MEETING

AGENDA

May 21, 2018

Council Room

Matheson Courthouse

450 South State Street

Salt Lake City, Utah 84111

9:00 a.m. – 12:00 p.m.

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. Oath of Office – Judge Ryan Evershed. Appointment to Judicial Council
Committees – Judge Ryan Evershed and Judge Mark May
..... Chief Justice Matthew B. Durrant
(Action)
3. 9:10 a.m. Chair’s Report..... Chief Justice Matthew B. Durrant
4. 9:15 a.m. Administrator’s ReportRichard Schwermer
5. 9:25 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Liaison Committee.....Justice Thomas Lee
Policy and Planning Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 – Information)
6. 9:35 a.m. Facilities Planning Committee Report..... Judge David Mortensen
(Tab 3 – Information) Alyn Lunceford
7. 10:05 a.m. HB 248. Language for Compensatory Service Kim Allard
(Action) Jacey Skinner
8. 10:15 a.m. 2019 Judicial Council Schedule Ray Wahl
(Tab 4 – Action)
- 10:20 a.m. Break

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| 9. | 10:30 a.m. | Consideration of Commissioner Request for Education Waiver
.....Richard Schwermer
(Action) |
| 10. | 10:35 a.m. | Judicial Conduct Commission ReportAlex Peterson
(Tab 5 – Information) |
| 11. | 11:00 a.m. | Executive session |
| 12. | 12:00 p.m. | Adjourn |

Consent Calendar

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

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| 1. | Committee Appointments
(Tab 6) | Pretrial Release Committee – Keisa Williams
Child Support Guidelines Committee – Ray Wahl |
| 2. | Forms for final approval
(Tab 7) | Forms Committee – Brent Johnson |
| 3. | Probation Policies 2.1, 2.12, 2.13, 4.1, 4.2, 4.11
(Tab 8) | Dawn Marie Rubio |
| 4. | Uniform Fine and Bail Committee Report
(Tab 9 – Committee sunsets in 2018) | Shane Bahr
Clayson Quigley |

Tab 1

JUDICIAL COUNCIL MEETING

Minutes
April 16, 2018
Council Room
Matheson Courthouse
450 S. State St.
Salt Lake City, Utah 84111
9:00 a.m. - 12:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Attendees:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Toomey, Vice Chair
Hon. Augustus Chin
Hon. Mark DeCaria
Hon. Paul Farr
Hon. Thomas Higbee
Justice Thomas Lee
Hon. David Marx
Hon. Mary Noonan
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Todd Shaughnessy
Hon. John Walton
Rob Rice, esq.

Staff:

Richard Schwermer
Ray Wahl
Shane Bahr
John Bell
Cathy Dupont
Dennis Moxon
Jim Peters
Dawn Marie Rubio
Jacey Skinner
Nancy Sylvester
Jeni Wood
Julie Wrigley

Excused:

Guests:

John P. Aston, JPEC Chairman
John Baxter
Clemons Landau
Michele Mattsson
Judge Gregory Orme
Judge Reuben Renstrom
Dave Walsh
Dr. Jennifer Yim

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

Chief Justice Matthew Durrant welcomed everyone to the meeting.

Motion: Judge Kate Toomey moved to approve the minutes from the March 9, 2018 Judicial Council meeting. Judge Paul Farr seconded the motion, and it passed unanimously.

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

Chief Justice Durrant thanked Jacey Skinner for her report at the Legislative Update.

3. ADMINISTRATOR'S REPORT: (Richard Schwermer)

Mr. Schwermer said the Third District judge vacancy should be posted this week. Mr. Schwermer said the JPEC public voting is halfway complete. Mr. Schwermer noted the Management Committee discussed the possibility of moving the July Judicial Council meeting to Sun Valley, Idaho in conjunction with the Bar Conference. Rob Rice noted the Bar would like to have the Council meeting there. Judge Toomey said it would be helpful to make this decision soon to accommodate for travel arrangements. While there were both positives and negatives to the Council's attendance, no action was proposed, and the schedule will remain unchanged.

Mr. Schwermer introduced Julie Wrigley as the new AOC Audit Director.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Liaison Committee Report:

Justice Thomas Lee said there has been discussion about revisiting criteria used by the committee to evaluate bills. The committee has also discussed meeting with legislators and legislative staff to discuss the judiciary's legislative review process. Mr. Schwermer said that this year general meetings would be held with legislators in each district. Jacey Skinner noted she would be bringing legislators to observe courtrooms. Justice Lee said one project the committee is working on is cataloging existing procedural provisions in the Code. Justice Lee said they might seek assistance from the advisory committees.

Policy and Planning Meeting:

Judge Derek Pullan stated Policy & Planning did not have a meeting this month; therefore, there were no minutes provided.

Bar Commission Report:

Rob Rice stated Bar Commission elections close today. The Lighthouse survey, consisting of 800 individuals and small businesses, is now complete. The results will be posted on the Bar's website. The Bar is now analyzing the results. Cost of legal counsel is the comment most often made in the survey as the reason not to engage an attorney.

5. LEGISLATIVE POLICY DISCUSSION: (Jacey Skinner)

Ms. Skinner discussed separating juvenile and district court bills in a short meeting and then having all the judges meet together in one large group for a longer meeting. Dawn Marie Rubio and Shane Bahr will discuss this proposal with their Boards.

6. FY2019 SPENDING RECOMMENDATIONS: (Richard Schwermer)

Mr. Schwermer distributed the FY 2019 proposed Judicial Council spending plan and described the process of how the budget plan is created.

Regarding, the ongoing budget plan, Mr. Schwermer explained that market comparability adjustment studies are divided into three different groups: 1) AOC personnel, including administrative assistants, TCE's, and state-level employees; 2) judicial assistants and case managers; and 3) probation staff. Market studies rotate amongst these three groups each year to determine the market rate of positions. This year Chief PO's, Probation Supervisors, Probation Officers and Deputy Probation Officers were studied. Human Resources completed a market comparability analysis of these positions for both private and public sectors, and found these positions are 13% below market. In the past, the goal has been to ensure the salaries for these positions are at least within 10% of market. The budget committee recommended that the Council increase all of the ranges by 7.5%, which includes the 2.5% COLA. If the Council approves the budget plan, everyone in those positions would get at least a 4.5% pay increase but could get as much as 7.5%. Last year the judicial assistants received a 5% increase due to the HR market analysis. Ray Wahl noted Rob Parkes, HR Director, is part of a list serve that aides in his market analysis research. Mr. Schwermer discussed changing an audit coordinator position to an auditor position. There is also a recommendation to add one more law clerk and have the Board of District Court Judges decide the location for the position. Mr. Schwermer proposed using the remaining \$41,000 for HR hot spots.

Mr. Schwermer next discussed the recommendation to use one-time funding for upgrades that were recommended by the recent IT security audit. Some funds have already been spent due to licenses expiring. Judge Shaughnessy said the Council might need to move IT expenses from one-time funds to ongoing funds. Mr. Schwermer noted there are some ongoing funds for IT already in place.

The anticipated cost of Codebooks may be less after an email is sent to all judges asking them to notify the Law Library if they do not need a full hardbound Utah Code book set and just use the softbound set, or if they prefer using the online version.

The rest of the ongoing and one-time spending plans were reviewed and discussed. Mr. Schwermer noted adjustments can be made to the budget plan in September once the 2018 books are closed and an exact carry forward figure of ongoing and one time money is determined.

Motion: Judge Toomey moved to approve the proposed FY 2019 budget plan as presented. Judge Higbee would like to include looking at alternative ways to calculate market adjustments to account for compression, more information on ODR, understanding why there are not any juvenile court law clerk positions requested, and reassurance that IT funds will be available to accommodate the replacement schedule. The staff should prepare information on these issues and present it to the Management Committee. Judge Mark DeCaria seconded the motion, and it passed unanimously.

7. JUDICIAL PERFORMANCE EVALUATION COMMISSION REPORT: (Dr. Jennifer Yim and John P. Ashton)

Chief Justice Durrant welcomed Dr. Jennifer Yim and John P. Ashton. Chief Justice Durrant thanked Mr. Ashton for his service as he ends his term on JPEC. Mr. Ashton expressed his commitment to the judiciary. Mr. Ashton noted the input from JPEC is important. Dr. Yim addressed some of the evaluations received. Dr. Yim provided examples of evaluations of

judges that more reflect issues with the system rather than the judge. Judge Shaughnessy would like data JPEC receives on system issues addressing the judiciary be shared with the Council. Dr. Yim addressed juvenile court judges' evaluations.

Dr. Yim said there were ongoing discussions regarding time standards. Dr. Yim asked whether judges are receiving timely updates on their cases. Mr. Schwermer noted a committee was created to address this issue with both district and juvenile court judges. Mr. Schwermer stated the Council takes the comments and suggestions from JPEC seriously and appreciates the feedback. Judge Higbee recommended discussing issues with each districts' respective Bench.

The commission's voting will be complete by April 24. Retention elections this year will include 35 full judges, 6 mid-level judges and 3 basic level judges. Dr. Yim has been working with judges to update their biographies and photos. Mr. Ashton said everyone is committed to having the best judiciary possible.

8. SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)

Ms. Sylvester addressed Judge Thomas Higbee's application to become an active senior judge and Justice Leonard Russon's application to become an inactive senior judge.

Motion: Judge Toomey moved to approve the appointment of Judge Thomas Higbee to be an active senior judge and Justice Leonard Russon to be an inactive senior judge. Judge Farr seconded the motion, and it passed with Judge Higbee abstaining on his application.

9. APPELLATE MEDIATION PROGRAM REPORT: (Judge Gregory Orme and Michele Mattsson)

Chief Justice Durrant welcomed Michele Mattsson. Ms. Mattsson explained the mediation process and noted the appellate mediation program began 20 years ago. Approximately 50% of the appellate cases selected settle through mediation. Judge Toomey said the appellate courts receive an overwhelming amount of positive feedback about mediation. After a question about why juvenile cases are not a separate statistical category, Ms. Mattsson said they do not often select juvenile court appellate cases. Court of Appeals cases are scheduled based on a single request, whereas, Supreme Court cases must have bilateral acceptance.

Judge Gregory Orme stated that previously the courts selected cases based on anticipation of settlement through mediation. Judge Orme said Ms. Mattsson communicates well with litigants and receives all positive feedback.

10. NEW JUSTICE COURT JUDGE CERTIFICATION: (Jim Peters)

Jim Peters discussed the certification application of Clemons Landau as a new justice court judge at the Salt Lake City Justice Court.

Motion: Judge Marx moved to approve Clemons Landau as a Salt Lake City Justice Court Judge. Judge Toomey seconded the motion, and it passed unanimously.

11. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Reuben Renstrom and Jim Peters).

Chief Justice Durrant welcomed Judge Reuben Renstrom. Judge Renstrom noted law trained judges have increased in the Justice Courts. Justice Courts handled 68% of all filings in Utah in 2017. Jim Peters has been visiting courthouses throughout Utah. Elections will be held next week to establish presiding judges in each district. The Board's current initiatives include interpreter requirements, media requests, ensuring quality recordings, and tracking cases under advisement. Judge Renstrom said Kim Free is working on creating a new clerk orientation and certification process. Judge Renstrom said there is a statutory requirement to keep a hardbound copy of the Utah Code in each courtroom; however, many judges are using online resources, such as Westlaw, to view the Code. A review of certification requirements is underway.

Judge Renstrom introduced Justice Courts 4.0 initiative or the future of Justice Courts, which allows for the possibility of consolidation of courts, Justice Courts becoming courts of record and moving from city/county employees to state employees. It has been approximately 10 years since the last study was completed. Justice Lee said justice courts becoming courts of record is an ongoing conversation.

12. EXECUTIVE SESSION

There was not an executive session held.

13. CONSENT CALENDAR ITEMS.

1) **Committee appointments.** Pretrial Release and Supervision Committee appointment of Reed Stringham, Marshall Thompson, Cara Tangaro, and Kimberly Crandall and the appointment of Judge Harmond as chair, subject to conditions; MUJI – Civil Committee appointment of Doug Mortensen; and Self-Represented Parties Committee appointment of Judge Catherine Hoskins. Approved without comment.

2) **Forms Committee forms.** Motion to ____ (name of motion); Stipulated Motion to ____ (name of motion); Memorandum Opposing Motion to ____ (name of motion); Stipulation to Motion to ____ (name of motion); Reply Memorandum Supporting Motion to ____ (name of motion); Statement Supporting Motion to ____ (name of motion); Request to Submit for Decision; Notice of Hearing; Findings of Fact, Conclusions of Law and Order on Motion to ____ (name of motion); Motion to Excuse Education Requirements; Motion to Excuse Mandatory Divorce Mediation and Motion to Excuse Mediation; Non-public Information – Parent Identification and Location; Non-public Information – Safeguarded Address; Non-public Information – Minors; Ex Parte Motion for Hearing to Identify Judgment Debtor's Property; Order for Debtor to Attend Hearing to Identify Judgment Debtor's Property; Answers to Questions About Judgment Debtor's Property; Certificate of Service of Answers to Questions About Judgment Debtor's Property; Motion for [] Finding of Contempt [] Bench Warrant; Bench Warrant; and Order to Appear and Explain Failure to Comply with Order. Approved without comment.

3) **Probation Policies 2.17, 2.18, and 4.5.** Approved without comment.

4) **HR Code of Personal Conduct 500.** Approved without comment.

14. ADJOURN

The meeting adjourned.

Tab 2

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

May 8, 2018
Council room
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111
12:00 p.m. – 2:00 p.m.

Members Present:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Toomey, Vice Chair
Hon. David Marx
Hon. Mary Noonan
Hon. Todd Shaughnessy

Staff Present:

Richard Schwermer
Ray Wahl
Jacey Skinner
Kim Allard
Cathy Dupont
Brent Johnson
Dennis Moxon
Chris Palmer
Jim Peters
Clayson Quigley
Dawn Marie Rubio
Keisa Williams
Jeni Wood

Excused:

Guests:

Judge James Brady
Kyle Memmott

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

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

Motion: Judge Todd Shaughnessy moved to approve the April 10, 2018 Management Committee meeting minutes. Judge Kate Toomey seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Richard Schwermer)

Richard Schwermer announced Judge Allphin and Judge Dawson, from the Second District, will retire later this year. Mr. Schwermer noted the Board of Juvenile Court Judges voted to have Judge Ryan Evershed replace Judge Thomas Higbee, effective May 2018, and Judge Mark May to replace Judge Mary Noonan, effective July 2018, on the Judicial Council. Mr. Schwermer explained with Judge Evershed's court being a considerable distance from Salt Lake City that it may not be feasible to add him to the Liaison Committee due to their weekly

Salt Lake City meetings during the legislative session. Mr. Schwermer recommended adding Judge Evershed to the Policy & Planning Committee and adding Judge May to the Liaison Committee. Mr. Schwermer said that Keisa Williams has announced her resignation.

Mr. Schwermer said the JPEC midterm scores are complete, although they are not public yet. The scores will be sent to the Judicial Council for review. Mr. Schwermer distributed the most recent judicial weighted caseloads for District and Juvenile Court for the committee to review.

3. PROBATION POLICIES 2.1, 2.12, 2.13, 4.1, 4.2, 4.11: (Dawn Marie Rubio, Kyle Memmott, and Dennis Moxon)

Dawn Marie Rubio reviewed the policies. There was brief discussion on the proposed policy revisions.

Motion: Judge Toomey moved to approve policy revisions to 2.1, 2.12, 2.13, 4.2, 4.11, and delete policy 4.1 and put this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

**4. COMMITTEE APPOINTMENTS: (Ray Wahl and Keisa Williams)
Child Support Guidelines Committee**

Ray Wahl reviewed the Child Support Guidelines Committee's appointment recommendation.

Motion: Judge Toomey moved to approve the appointment of Commissioner T.R.. Morgan to the Child Support Guidelines Committee and to place this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

Standing Committee on Pretrial Release and Supervision

Keisa Williams addressed the Standing Committee on Pretrial Release and Supervision's appointment recommendations. Ms. Williams noted Judge Angela Fannesbeck has resigned from this committee. The committee briefly discussed the role of a juvenile court judge on this committee. Ms. Rubio will seek a replacement for Judge Fannesbeck.

Motion: Judge Toomey moved to approve the appointment of Judge William Kendall to the Standing Committee on Pretrial Release and Supervision and to place this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

5. HB 248. LANGUAGE FOR COMPENSATORY SERVICE: (Jacey Skinner and Kim Allard)

Kim Allard discussed the proposed compensatory service notice. Ms. Allard explained the reasoning behind adding this proposed notice. The compensatory service proposed language reads: "You may request that the Court allow you to perform community service in lieu of paying some, or all, of a fine for class B and C misdemeanors. Community service will be credited at a rate of \$10/hour. Please contact the court to make an appearance before the judge if you would like to request community service in lieu of paying your fine. (UCA 76- 3-301.7)"

Judge Marx requested that infractions be included in the notice as well. This item will be effective today and will be placed on the Judicial Council agenda for discussion.

6. FORMS COMMITTEE – FORMS FOR FINAL ACTION: (Brent Johnson)

Brent Johnson reviewed the proposed forms. Judge Toomey recommended one change to the Order to Waive Divorce Waiting Period.

Motion: Judge Toomey moved to approve with an effective date of May 8, 2018, amendments to following forms: Revised Motion to Waive 90 day Waiting Period; Revised Parenting Plan; Revised Petition to Appoint a Guardian for an Adult; Petition to Expunge Records Criminal-dismissal or acquittal; Revised Request for Protective Order; Revised Schedule A; Revised Temporary Protective Order; Order to Wireless Provider; Revised Order on Motion to Waive 90 day Waiting Period; Revised Protective Order; Revised Findings Conclusions; Order-dismissal or acquittal; Consent-waiver of hearing; Revised Modified Temporary Protective Order; and Revised Modified Protective Order, as amended. Judge Shaughnessy seconded the motion, and it passed unanimously.

7. UNIFORM FINE AND BAIL COMMITTEE REVISED BAIL SCHEDULE: (Judge James Brady and Clayson Quigley)

Judge James Brady reviewed the proposed revisions to the uniform fine and bail schedule. A separate handout was sent that summarized the proposed revisions.

Motion: Judge Toomey moved to adopt the revised fine and bail scheduled as presented, effective today. Judge Shaughnessy seconded the motion, and it passed unanimously.

8. UNIFORM FINE AND BAIL COMMITTEE – SUNSET 2018: (Judge James Brady and Clayson Quigley)

Mr. Wahl requested a reauthorization of this committee for a term of six years.

Motion: Judge Toomey moved to approve the extension of the Uniform Fine and Bail Committee for a term of six years and place it on the Judicial Council consent calendar. Judge Noonan seconded the motion, and it passed unanimously.

9. APPROVAL OF 2019 JUDICIAL COUNCIL SCHEDULE: (Richard Schwermer)

Mr. Schwermer reviewed the proposed 2019 Judicial Council meeting schedule. Mr. Schwermer noted the March 2019 meeting will be in conjunction with the State Bar convention but it is scheduled one week before the legislative session ends. Mr. Schwermer discussed the possibility of holding a meeting at the new Provo courthouse next April, May or June. The February meeting will be moved to February 19.

Motion: Judge Toomey moved to approve the 2019 Judicial Council schedule, as amended, and place this item to the Judicial Council agenda. Judge Shaughnessy seconded the motion, and it passed unanimously.

10. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Durrant)

Chief Justice Durrant addressed the proposed agenda for the May 21, 2018 Judicial Council meeting.

Motion: Judge Toomey moved to approve the Judicial Council agenda as amended. Judge Shaughnessy seconded the motion, and it passed unanimously.

11. EXECUTIVE SESSION

An executive session was held.

12. ADJOURN

The meeting adjourned.

Policy and Planning Committee

Council Room – N31
Matheson Courthouse
450 South State Street
Salt Lake City, UT

DRAFT

May 4, 2018

9:00 a.m. – 3:00 p.m.

Members Present:

Judge Derek Pullan, Chair
Judge Mary Noonan
Judge Kara Pettit
Rob Rice
Judge John Walton

Members Excused:

Judge Augustus Chin

Staff:

Keisa Williams
Minhvan Brimhall

Guests:

Judge Dennis Fuchs
Clayson Quigley
Rob Parkes
Judge James Taylor – via phone
Nancy Sylvester

(1) Welcome and Approval of Minutes

Judge Pullan welcomed the members to the meeting. Judge Pullan addressed the March 2, 2018 minutes. There being no changes, Judge Noonan made a motion to approve the minutes as written. Judge Walton seconded the motion and it passed unanimously.

(2) BDCJ Proposed Rule Change

Judge Pullan welcomed Judge Taylor to the meeting via phone. Judge Taylor discussed the new rule proposal from the Board of District Court Judges. The proposed rule is intended to foster more effective probation supervision by consolidating the supervision of probation to a single judicial authority. It is not intended to create more work in any one location, but rather to avoid duplication of efforts and resources. When more than one judge is supervising the same individual, the number of hearings, transportation requirements, and costs are significantly multiplied. When an individual who has already been convicted and placed on probation is convicted and sentenced for another offense, the new rule would allow a judge to transfer authority for supervision and enforcement of probation for the subsequent conviction to any division of the District Court in any other District already managing probation for the first offense. The sending judge, prosecutor, and the defendant must agree to the transfer. The committee discussed whether parties should be allowed to prevent the transfer by objection or whether judges should get to make the final decision after argument by the parties. The receiving judge may also object to the transfer. Adult Probation and Parole was invited to provide input and they had no objections to the proposed changes. The Board of District Court Judges has approved this draft.

Judge Pullan asked if it would be beneficial for the Committee to allow stakeholders to attend the Committee's next meeting to provide input. Judge Taylor was not aware if prosecutors or defense counsel organizations (UACDL, SWAPP, etc.) were offered an opportunity for input. Judge Pullan expressed concern that defense counsel and prosecutors were not allowed to provide input. After discussion, the Committee agreed that more input is needed from other legal representatives prior to sending the rule out for public comment. Ms. Williams will draft a letter to UACDL, SWAPP, and the Utah Prosecution Council asking for feedback regarding the proposed changes. Ms. Williams will send the letter to Judge Pullan for final review before it is disseminated. The letter should request comments in writing due to Ms. Williams one week prior to the next meeting.

Judge Pullan asked that this item be on the agenda for the next Policy and Planning meeting.

(3) Rules back from public comment:

CJA 3-407, 4-202.02, 4-202.07, 4-202.09, 4-510.03

All rules have come back from public comments. Only one comment was received for CJA 4-202.02. The Committee discussed the comment and Mr. Johnson's original request and ultimately determined that the rule would remain as amended by Mr. Johnson.

Judge Walton made a motion to recommend to the Judicial Council that CJA 4-202.02 be approved as final. Mr. Rice seconded the motion and it passes unanimously.

Mr. Rice made a motion to recommend to the Judicial Council that CJA 3-407, 4-202.07, 4-202.09, and 4-510.03 be approved as final. Judge Noonan seconded the motion and it passed unanimously.

7-303

Originally, the Committee voted to repeal CJA 7-303 due to changes in HB 239 removing the court's jurisdiction over truanies. However, HB 132 gives truancy jurisdiction back to the juvenile court so the rule is still needed. Mr. Rice made an amendment to his previous motion recommending that CJA 7-303 remain in effect. Judge Noonan seconded the motion. With no further discussion, the rule was passed unanimously.

(4) Human Resources Professional Appearance Policy Update

Rob Parkes was welcomed to the meeting. Mr. Parkes, Mr. Rice and Judge Pettit are still making adjustments to the policy. They will present their amendments at the next meeting.

(5) CJA 4-202.09. Miscellaneous

Ms. Sylvester addressed proposed amendments to CJA 4-202.09. These amendments are in response to a recent records request in which a member of the public made a very broad request requiring the AOC to conduct email searches. The requester was unhappy with the search terms used by the AOC's Information Technology Department to locate relevant emails. This incident caused the AOC to expend a lot of unnecessary time and resources and identified a need for more definitive requirements for records requests in our rules.

The proposed changes would require that a records access request for email correspondence provide specific search terms, dates of emails, and names of persons having access to emails. The proposal further requires that the person handling the request forward the request to the court's IT department to create search parameters for the emails requested.

The Committee discussed the need for the requests to be sufficiently detailed and narrowly tailored to allow the court to reasonably identify the subject of the emails so that the request is not unduly burdensome. The Committee discussed the requirement of a date range versus a specific date and determined that the internal process language should not be included in the rule.

Mr. Rice moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Judge Walton seconded the motion. With no further discussion, the motion was passed unanimously.

(6) CJA 3-111. Performance evaluation of senior judges and court commissioners

Ms. Sylvester presented on CJA Rule 3-111. The rule has come back from a second round of public comments. Only one comment was received, but the comment was supportive and made no recommendations for amendments. The rule is ready for final action.

Judge Noonan moved to approve the rule as amended for recommendation to the Judicial Council that the rule be approved as final. Judge Walton seconded the motion. With no further discussion motion was passed unanimously.

(7) Powers & Duties of Bail Commissioners under Utah Code § 17-32-1

Ms. Williams stated that she wanted to bring an issue to the Committee's attention for consideration and guidance. During her travels around the state and communication with both law enforcement and judges surrounding the new probable cause system and PSA implementation, Ms. Williams discovered that most law enforcement agencies are setting bail on felony offenses and releasing arrestees able to post bail without a judge's review. This practice is in violation of Utah Code §17-32-1. The Code authorizes bail commissioners (typically jail staff) to "fix" and receive bail on misdemeanor offenses, provided they use the amounts listed on the Uniform Fine & Bail Schedule. The Code only authorizes bail commissioners to "receive" bail on felonies, expressly limiting their authority to "fix" bail on those offenses. Judges must "fix" bail on felonies. Many judges were unaware of this statutory provision and law enforcement agencies are interpreting the provision as authorizing them to "fix" bail on felonies as long as they use the Uniform Fine & Bail Schedule amounts. According to law enforcement, this has been the practice for "decades" and a change would significantly affect their ability to perform their duties and manage jail overcrowding.

Judge Pettit stated that the Code is very clear. After discussion, the Committee determined that because this is a statewide issue and there may be significant push back from stakeholders, this body may not be the right forum. The Committee determined that Brent Johnson should discuss the issue with Rick Schwermer and the Chief Justice. Ms. Williams will notify Mr. Johnson and Mr. Schwermer of the Committee's direction.

(8) CJA 4-202.03. Records Access (for Juveniles)

Ms. Williams presented proposed changes to CJA 4-202.03 which would allow access to juvenile court social records by public or private agencies or individuals providing services to juveniles and/or their families, including services pursuant to non-judicial adjustments. The issue was raised by a juvenile court TCE. Ms. Williams presented and received approval of the rule amendment from Chief Probation Officers, Juvenile Court TCEs, the Juvenile Court Administrator, and the Board of Juvenile Court Judges. The rule requires a determination by a probation officer that access is necessary for the provision of effective services. The Juvenile Court Administrator will be working with appropriate stakeholders to craft internal policies for probation officers in making that determination.

Judge Noonan provided examples of the need for this access. The Committee determined that internal policies for probation officers should be in place before this rule goes into effect. The Committee discussed whether HIPPA would prohibit access to medical information. Mr. Johnson stated that HIPPA does not apply to the Court.

A probation officer's report may be shared between providers; however, mental health records fall under the HIPPA rule are protected and could only be accessed under certain circumstances under subsection 5.

Judge Noonan moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Judge Pettit seconded the motion. With no further discussion, the motion was passed unanimously.

(9) CJA 4-202.03. Records Access (for LPPs)

Mr. Johnson presented proposed amendments to CJA 4-202.03 allowing access to various classifications of records for Licensed Paralegal Practitioners (LPPs) similar to that of attorneys. These changes are to accommodate the new LPP program. The committee discussed whether it is within the scope of an LPP's authority to create powers of attorney. After discussion, the Committee removed the language describing who created the power of attorney at issue in each relevant subsection.

Judge Noonan moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Judge Walton seconded the motion. With no further discussion, the motion was passed unanimously.

(10) CJA 3-401. Office of General Counsel

Mr. Johnson presented proposed amendments to CJA 3-401 deleting certain requirements under the rule to bring it in line with current practice. In reviewing records access requests, the Office of General Counsel has discovered that certain requirements under this rule have not been followed for quite some time. A requester has asked for a copy of the AOC's agreement with the AG's office. To Mr. Johnson's knowledge, the agreement no longer exists. An agreement does not make sense since everything is covered by statute and rule. The Committee added a reference under subsection (4) to the relevant rule and statute. Proposed changes also include removing involvement of the Chief Justice regarding workload issues, requiring judicial officers

to send copies of requests for legal representation to the AG's office, and requiring Judges to send written requests for legal advice on the Code of Judicial Conduct.

The Committee discussed the various provisions. Judge Pullan expressed concern that when this rule is published for comment, parties may look at the deletion of the last line in subsection 3(A)(ii)(a) which states, "General Counsel shall not provide legal counsel or advice to judicial officers on issues which are pending before the court for resolution," and be concerned that the deletion will now allow judges to relying heavily on or allow the General Counsel's Office to make decisions regarding pending actions. Mr. Johnson stated that judges will call about ethics issues regarding cases pending before them and may bounce ideas off the General Counsel's Office the same way they would a law clerk or colleague. Those discussions are authorized. We are just acting as a sounding board and not giving legal advice. Mr. Johnson provided examples of questions he has received and how his office has responded.

Mr. Rice asked if the language in 3(A)(ii)(a) was removed, is there was some provision in the Code of Judicial Conduct (CJC) outlining a judge's responsibility to be solely responsible for his or her decision. Mr. Johnson stated that CJC Canon 2.9(3) covers that responsibility. Judge Pettit recommended that the Committee include a note along with the publication of the rule draft noting that the removal of that language does not abdicate Judges' responsibility to make their own decisions under the CJC. Ms. Williams will include that note.

Judge Pullan asked if judges have ever made a written request for legal advice regarding the Code of Judicial Conduct for referral to the Ethics Advisory Committee as indicated in the language struck in lines 64-66. Mr. Johnson stated that CJA Rule 3-109 covers the requirements for submitting requests for informal ethics advisory opinions to the Ethics Advisory Committee.

After discussion, Mr. Rice moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment, along with the note discussed. Judge Noonan seconded the motion. With no further discussion, the motion was passed unanimously.

(11) CJA 4-403. Electronic Signature and Signature Stamp Usage

Mr. Johnson presented proposed amendments to CJA 4-403. The proposal would add orders appointing a court visitor to the list of documents on which clerks are allowed to, with prior approval from a judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining a signature directly from the judges/commissioners. This would bring the rule in line with current practice. This is a basic and fairly common order.

After discussion, Judge Walton moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Mr. Rice seconded the motion. With no further discussion, the motion was passed unanimously.

(12) CJA 4-701. Failure to Appear

Mr. Johnson presented proposed amendments to CJA 4-701. The proposal deletes the reference to failures to appear as a separate offense. The legislature recently eliminated the crime of failure to appear on a citation. That law goes into effect May 8, 2018.

After discussion, Judge Noonan moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Mr. Rice seconded the motion. With no further discussion, the motion was passed unanimously.

(13) Appendix I to CJA – Classification of criminal investigations

Ms. Williams presented proposed amendments to Appendix I of the Code of Judicial Administration. The amendment changes the designation of Criminal Investigation case types from protected to public. This request was made by the Court Services Department. When updating their training documents for clerks, they noticed a discrepancy in the designation listed in the Appendix versus the designation in the training documents. This change would bring the Appendix in line with the court's records access rules under CJA 4-202.02(5)(J). Ms. Williams discussed the issue with Mr. Johnson who concurred with the recommended changes.

The Committee discussed the need for these case types to be protected and questioned whether the Application for Criminal Investigation filed by prosecutors includes identifying information. Ms. Williams explained the current process for filing those applications. When prosecutors file the application, if the information needs to be protected, they also file a Motion for Secrecy which seals the associated documents until a judge makes a determination. Ms. Williams noted that in her conversation with Mr. Johnson on this subject, he stated that the Motion for Secrecy itself is a public document so there should be at least one public document in every case. The judge might order only some of the documents to be made private, so the entire case does not automatically become private. The training document for clerks is very clear on that process/procedure. Judge Pullan asked if the individual's name is listed anywhere in the Application or Motion for Secrecy, or if it is de-identified with a heading of "Sate v. John Doe" for example. Ms. Williams stated that she did not know the answer to that question. Judge Pullan stated that he is uncomfortable approving this amendment without confirming that the documents and/or case types made public do not include identifying information that should otherwise be protected. After discussion, the Committee did not believe identifying information was included in the Application or Motion for Secrecy. Judge Pettit stated that the Motion for Secrecy is public under GRAMA, but that it need not include any identifying information. The Committee amended the Appendix to state "Public unless otherwise ordered."

After discussion, Judge Walton moved to approve the rule as amended for recommendation to the Judicial Council that it be published for public comment. Mr. Rice seconded the motion. With no further discussion, the motion was passed unanimously.

(14) CJA 2-207. Annual rulemaking and periodic review of the Code

The Committee is charged conducting a periodic review of the Code of Judicial Administration in its entirety every 5 years. To the Committee's knowledge, that has never been done. The Committee reviewed the list of rules and assignments and made changes where appropriate. The Committee asked Ms. Williams to add an item on the Committee's October agenda for a report from the responsible member that year, and an item on the November agenda for the Committee to make substantive changes based on those recommendations. This should be a standing policy for the Committee every year. Ms. Williams will assist the members with their review and drafting efforts and will be responsible for the Appendices. Mr. Rice and Judges Pettit and

Pullan will continue their review for 2018. Ms. Williams will make the necessary changes and email an updated spreadsheet and instructions for review.

(15) CJA 4-409. Council Approval of Problem Solving Courts

The Committee continued their discussion from the March meeting regarding the Committee's charge from the Judicial Council to review the certification process for Problem Solving Courts. The Committee is to identify which items on the certification checklists are truly Requirements for decertification and which are best practices. The Judicial Council expressed concern that some Problem Solving Courts are not meeting all of the Requirements but are still being certified. The Committee discussed the importance of building a relationship with participants and accomplishing the respective court's goals, rather than just checking boxes (for example, the requirement that judges spend at least 3 minutes with each participant). Currently, the certification checklist for Adult Drug Court lists 53 Requirements, 30 Presumptions and 15 Best practice standards.

The Committee discussed Judge Fuchs' and Rick Schermer's proposal that a working group be created which includes a few judges who preside over Problem Solving Courts to reevaluate the checklists. The Committee agreed with that proposal, but created some guidelines and directives for the membership of the working group and its charge. The Board of District Court Judges shall appoint 3 and the Board of Juvenile Court Judges shall appoint 2 problem-solving court judges to the Committee's Problem-Solving Court Working Group (WG). The Committee will appoint one of its members. Staff to the WG will be Judge Fuchs and/or Rick Schwermer. The WG will elect its Chair.

The WG's mandate is to:

1. Identify national evidence-based practices for problem-solving courts, including review of recent research;
2. Limit the number of criteria which are Required for certification. Required criterial are those, without which, actual harm will occur and/or participants would be better served by disbanding the court altogether;
3. Simplify the certification checklists for all problem-solving courts;
4. Consider proposed amendments to CJA Rule 4-409(5);
5. Consider whether the Judicial Council should allocate more resources to the certification process; and
6. Complete its work no later than December 31, 2018.

The Committee discussed the timing of the adoption of the certification checklists in relation to the requirements set forth in CJA Rule 4-409(5). The Committee asked Ms. Williams to find out when the checklists became the standard for certification and superseded the requirements listed in the rule.

Judge Fuchs joined the meeting. He indicated that the drug court checklists were created from the 2015 NADCP guidelines for best practices. The 2017 version was a second volume and Rick was a member of the national organization who identified those standards. The rule was never changed to adopt evidence based practices. To Judge Fuch's knowledge, the checklists were

approved at a District Court conference and the Judicial Council then adopted those requirements.

The Committee intends to propose to the Management Committee and Judicial Council that the certification requirements to those outlined in CJA Rule 4-409(5) until the WG is able to complete its work. Ms. Williams will talk to Rick Schwermer about including this item on the Management Committee agenda. That body will determine whether the issue should be included on the Judicial Council agenda.

Judge Pullan asked Ms. Williams to talk to Shane Bahr and Dawn Marie Rubio to get Board recommendations for membership on the WG and asked that he be included on the next agenda for both Boards to discuss the Committee's intent. Ms. Williams will send an email to those staff with a cc to Judge Pullan, Judge Fuchs, and Rick Schwermer.

(16) July 6 Meeting

The Committee members moved to cancel the July 6th meeting for summer break.

(17) Adjourn

The next meeting is scheduled for June 1, 2018 in the Judicial Council room at 12:00 p.m. There being no other business the meeting was adjourned at 2:55 pm.

Tab 3

Court Facility
Planning
Committee

2018

Annual report

Standing Committee Report 2018

Courts Facility Planning

Rule 3-409

Intent:

- To provide for the responsibilities of the Courts Facility Planning Committee.
- To provide for the effective planning of courts capital facilities.
- To promote the efficient use of new and existing courthouses through application of co-location and multi-use court facility concepts.
- To establish a framework for the conceptual, planning, developmental and implementation phases of court capital facilities.
- To provide for Council review and approval of all proposed court capital facilities.
- To ensure adherence to the design and space guidelines and other requirements of the Utah Judicial System Capital Facilities Master Plan.

Committee Responsibilities:

Review trends and projections in population, caseload, and other growth indicators to anticipate courthouse construction needs:

Studies Current and Ongoing

Sanpete County
Wasatch County
Iron County
Davis County

Capital Development Projects

Fourth District	Provo - District and Juvenile Courthouse Utah County – Construction
Seventh District	Price - District and Juvenile Courthouse Carbon County – Construction
Sixth District	Manti - District and Juvenile Courthouse Sanpete County – Property Purchased

Review the evaluations of courthouses required by this rule and recommend the prioritized placement of courthouse construction projects within the Master Plan:

The Committee evaluates and prioritizes all court sites and court facilities for the Facility Master Plan. The information is used to evaluate facility for capital development, capital improvement, facility maintenance and remodel projects. The Master Plan includes all court facilities; state owned, leased and contract sites. **(Attached)**

Review recommendations from the facility coordinator on construction projects and the Master Plan:

As part of the budget process the facility coordinators are required to submit a list of projects for funding consideration to the Committee. These requests are reviewed, evaluated and prioritized for the Capital Improvement Project funding.

Make recommendations to the Council regarding the reordering of Master Plan priorities and amendments to design and space guidelines:

The Master Plan is reviewed as events, conditions or opportunities develop. The Committee evaluates the prioritization of the Master Plan annually and presents recommendations and changes to the Judicial Council as needed.

The Design and Space Guidelines are updated at the end of each Capital Development project; the Design and Space Guidelines have been updated to reflect the lessons learned at the completion of each Capital Development Project. After the Provo and Price buildings are completed we will incorporate the lessons learned from those projects. We have changed the file storage requirements, building security systems and probation staff work layout. The Design and Space Guidelines will be updated and presented for comment and approval next year.

Compare construction requests with the Design and Space Guidelines of the Master Plan to ensure the current and anticipated needs of the court are met:

All construction requests are reviewed for compliance to the Design and Space Guidelines. The guidelines are updated as needed to ensure they meet the current needs of the courts.

Develop timetable for construction requests so that the Committee presents its recommendations to the Council in advance of the Annual Planning Workshop:

The Master Plan prioritizes all court facilities. This prioritization is used to select the order of Capital Development and Capital Improvement requests based on the needs of the courts and included in the annual report of the Standing Committee.

Make recommendations to the Council for the approval, modification or disapproval of construction requests:

All Capital Development Project Requests are evaluated for need and compliance with the Master Plan and Design Guide Lines before presentation to the Council. The Council can modify or change the list before taking action.

Develop procedures for the delegation of committee responsibilities to the facility coordinator:

The Committee has delegated the responsibility of defining and requesting improvement projects to the facility coordinators for each district. The procedures for evaluating and developing these requests have been incorporated into the annual budget request process. The facility coordinators are attending the construction meetings within their district.

Utah State Courts Facility Master Plan 2018

Owned Court Facilities		
District Site	Scope and Cost Estimates	Update Status
<u>Fourth District</u> <u>Provo</u> <u>District and Juvenile Courthouse</u> Status: <u>Projected completion date</u> <u>Fall 2018</u>	To provide a new court facility in Provo to replace the Provo District Courthouse, Provo Juvenile Courthouse, Orem Juvenile Courthouse and Provo Guardian Ad Litem. FY 2016 project cost \$91,000,000	2015 Legislature Approved an \$88,000,000. 2016 Legislature Approved an additional \$3,000,000.
<u>Fifth District</u> <u>Cedar City</u> Status: Current study item	To provide additional courtrooms and program space when needed. Current courthouses should be reevaluated by 2020. No cost estimate at this time	One new Fifth District Judicial position was authorized in the 2017 legislative session.
<u>Sixth District</u> <u>Richfield</u>	Identify timing for expansion of existing courthouse. Current courthouses should accommodate Courts until 2025. No cost estimate at this time	No action has been taken or planned.
<u>Second District</u> <u>Davis County Court Facilities</u> (Layton, Farmington and Bountiful)	Space needs will be defined in the feasibility study when projections indicate additional courtrooms and program space is needed. The feasibility study will evaluate the needs of all three court facilities in Davis County. Current courthouses should accommodate Courts until 2030. No cost estimate at this time	No action has been taken or planned.

Leased Court Facilities

District Landlord Site	Project Description and Cost Estimates	Update Status
<u>Seventh District</u> <u>Carbon County</u> <u>Price</u> Status: <u>Projected completion date</u> <u>Summer 2018</u>	Construct a new courthouse on the site of the old Carbon County office building. This building site is located on the main street of Price and has the support of the County and City. The County is financing up to \$15,200,000 for design and construction.	This project is set to open July 2018.
<u>Sixth District</u> <u>Sanpete County</u> <u>Manti</u> Status: Property has been purchased and we are asking for design and construction funding in the 2019 Legislature.	Construct a new courthouse in the central business district of Manti City. Sanpete County is not interested in participating in the project. Property Acquisition cost - \$400,000 Estimated Project cost will be \$17,000,000	Property has been purchased and we are asking for design and construction funding in the 2019 Legislature.
<u>Seventh District</u> <u>San Juan County Monticello</u>	Remodel the current facility to improve security and operational issues. Construct additional space for Juvenile Probation and secure holding for juvenile defendants in custody. No cost estimate at this time	No action has been taken. This project should be reevaluated in 2020.
<u>Second District</u> <u>Morgan County</u> <u>Morgan</u>	Construct a new courthouse in the central business district of Morgan City. Morgan County is not interested in participating in the project. No cost estimate at this time	No action has been taken. This project should be reevaluated in 2022.

Juvenile Probation Facilities		
District City	Project Description and Cost Estimates	Update Status
<u>Sixth District</u> <u>Juvenile Probation</u> <u>Manti</u>	Construct a new courthouse in the central business district of Manti City that will consolidate all District and Juvenile functions in Sanpete County to a single location.	This space is included in the Sanpete County Courthouse request.

Other Projects

These projects require local government funding and are paid for through the Contract and Lease Budget.

1. Wayne County

Letter has been received from Wayne County stating the County will need a new court facility within 10 years, and wants the state to participate. No formal talks have been scheduled with the County. Wayne County is talking with DFCM about Planning and Programming a new county facility that would include the Courts needs.

2. Wasatch County

Fourth Juvenile Court has submitted a building block to add one additional courtroom to this facility for Juvenile court cases. Wasatch County has agreed to fund the development if the State Courts will enter into a long-term lease agreement that is designed to cover the debt service on the expansion. This project was presented to the committee and the budget committee for consideration in 2016 and will be resubmitted in 2017.

Planning Projects

- 1. Sanpete County** (District Court, Juvenile Court, Juvenile Probation and GAL)
- 2. Iron County** (District Court, Juvenile Court, Juvenile Probation and GAL)
- 3. Davis County**(District Court, Juvenile Court, Juvenile Probation and GAL)

Contract Court Sites 2018

Facility #	District	County	Facility Type	State / Contract	Unit Name	Leased / Owned	Courtrooms	Square Feet	Security	Condition	Adequacy	Total
2654	6	Wayne	Courthouse	Contract	Loa	Leased	1	2,600	2	2	9	13
2665	8	Daggett	Courthouse	Contract	Manila	Leased	1	3,137	2	4	8	14
2604	1	Rich	Courthouse	Contract	Randolph	Leased	1	2,415	3	5	10	18
2627	4	Millard	Courthouse	Contract	Fillmore	Leased	1	8,598	4	7	9	20
2648	6	Piute	Courthouse	Contract	Junction	Leased	1	4,120	6	8	9	23
2647	6	Garfield	Courthouse	Contract	Panguitch	Leased	1	2,481	6	9	9	24
2634	4	Utah	Courthouse	Contract	Salem	Leased	0	104	N/A	N/A	N/A	N/A
Total								23,455				
These facilities are contract sites - we work with the Counties to improve the facilities but the County controls the facilities.												

Juvenile Probation Facilities 2018

Facility #	District	County	Facility Type	State / Contract	Unit Name	Leased / Owned	Courtrooms	Square Feet	Security	Condition	Adequacy	Total
	Owned Facilities											
2669	8	Uintah	Probation Office	State	Vernal training / public programs	Owned	0	4,786	4	5	8	17
2613	2	Weber	Probation Office	State	Ogden JV Probation / GAL	Owned	3	23,857	7	7	10	24
2620	3	Salt Lake	Probation Office	State	West Valley City JV Prob	Owned	1	26,300	7	8	10	25
2633.5	4	Utah	Probation Office	State	Provo JV Work Crew building	Owned	0	12,000	7	9	9	25
2616	3	Salt Lake	Probation Office	State	City Center Probation	Owned	0	8,312	8	9	9	26
Total								75,255				
Juvenile probation (supervision) and GAL remodel project in the old Ogden Juvenile courthouse; the project will be complete fall 2016												
	Leased Facilities											
2662	7	San Juan	Probation Office	State	Monticello JV Prob	Leased	0	540	4	4	7	15
2652	6	Sanpete	Probation Office	State	Manti JV / GAL	Leased	0	1,940	3	4	10	17
2660	7	San Juan	Probation Office	State	Blanding JV	Leased	0	374	7	6	5	18
2626	4	Millard	Probation Office	State	Delta JV Prob	Leased	0	702	6	7	10	23
2642	5	Iron	Probation Office	State	Cedar City JV Prob	Leased	0	5,089	7	7	10	24
Total								8,645				

Owned Court Facilities 2018												
Facility #	District	County	Facility Type	State / Contract	Unit Name	Leased / Owned	Courtrooms	Square Feet	Security	Condition	Adequacy	Total Score
2631	4	Utah	Courthouse	State	Provo Dist	Owned	9	59,928	3	5	1	9
2633	4	Utah	Courthouse	State	Provo JV	Owned	3	18,303	3	5	4	12
2629	4	Utah	Courthouse	State	Orem	Owned	4	16,080	3	5	5	13
2641	5	Iron	Courthouse	State	Cedar City	Owned	3	17,037	8	7	7	22
2610	2	Davis	Courthouse	State	Layton	Owned	2	20,025	7	6	9	22
2608	2	Davis	Courthouse	State	Farmington	Owned	10	131,699	7	8	9	24
2612	2	Weber	Courthouse	State	Ogden Dist	Owned	11	91,000	8	8	9	25
2653	6	Sevier	Courthouse	State	Richfield	Owned	2	19,839	8	9	9	26
2668	8	Uintah	Courthouse	State	Vernal	Owned	3	33,331	8	9	9	26
2619	3	Salt Lake	Courthouse	State	West Jordan	Owned	10	117,439	9	8	10	27
2602	1	Box Elder	Courthouse	State	Brigham City	Owned	3	35,000	9	9	9	27
2644	5	Washington	Courthouse	State	St George	Owned	8	95,550	7	10	10	27
2618	3	Salt Lake	Courthouse	State	Matheson	Owned	37	417,000	9	9	10	28
2622	3	Tooele	Courthouse	State	Tooele	Owned	2	58,968	9	9	10	28
2603	1	Cache	Courthouse	State	Logan	Owned	6	73,644	9	9	10	28
2614	2	Weber	Courthouse	State	Ogden JV	Owned	3	87,000	9	10	10	29
Total								1,291,843				
		The new Fourth District, District and Juvenile court facility will be operational fall 2018										
Leased Court Facilities 2018												
2657	7	Carbon	Courthouse	State	Price	Leased	3	18,279	3	3	3	9
2651	6	Sanpete	Courthouse	State	Manti	Leased	2	7,301	3	3	5	11
2611	2	Morgan	Courthouse	State	Morgan	Leased	1	2,727	2	4	7	13
2637	4	Wasatch	Courthouse	State	Heber City	Leased	1	10,043	7	8	1	16
2667	8	Duchesne	Courthouse	State	Roosevelt	Leased	1	4,786	4	5	7	16
2661	7	San Juan	Courthouse	State	Monticello	Leased	1	3,206	4	7	7	18
2640	5	Beaver	Courthouse	State	Beaver	Leased	1	7,088	3	8	9	20
2659	7	Grand	Courthouse	State	Moab	Leased	1	11,936	5	7	9	21
2649	6	Kane	Courthouse	State	Kanab	Leased	1	3,846	5	8	9	22
2658	7	Emery	Courthouse	State	Castle Dale	Leased	1	8,800	6	8	9	23
2628	4	Utah	Courthouse	State	American Fork	Leased	3	27,588	8	8	8	24
2607	2	Davis	Courthouse	State	Bountiful	Leased	2	26,804	8	8	9	25
2621	3	Summit	Courthouse	State	Park City (Silver Summit)	Leased	2	15,100	9	8	10	27
2635	4	Utah	Courthouse	State	Spanish Fork	Leased	2	31,779	9	9	9	27
2666	8	Duchesne	Courthouse	State	Duchesne	Leased	1	7,013	9	9	9	27
2625	4	Juab	Courthouse	State	Nephi	Leased	1	3,080	9	9	10	28
2643	5	Iron	Courthouse	State	Parowan	Leased	1	3,077	N/A	N/A	N/A	-
Total								192,453				
		The new Seventh District Court facility in Carbon County Price City will be open spring 2018										

Leased Court Facilities 2018												
2657	7	Carbon	Courthouse	State	Price	Leased	3	18,279	3	3	3	9
2651	6	Sanpete	Courthouse	State	Manti	Leased	2	7,301	3	3	5	11
2611	2	Morgan	Courthouse	State	Morgan	Leased	1	2,727	2	4	7	13
2637	4	Wasatch	Courthouse	State	Heber City	Leased	1	10,043	7	8	1	16
2667	8	Duchesne	Courthouse	State	Roosevelt	Leased	1	4,786	4	5	7	16
2661	7	San Juan	Courthouse	State	Monticello	Leased	1	3,206	4	7	7	18
2640	5	Beaver	Courthouse	State	Beaver	Leased	1	7,088	3	8	9	20
2659	7	Grand	Courthouse	State	Moab	Leased	1	11,936	5	7	9	21
2649	6	Kane	Courthouse	State	Kanab	Leased	1	3,846	5	8	9	22
2658	7	Emery	Courthouse	State	Castle Dale	Leased	1	8,800	6	8	9	23
2628	4	Utah	Courthouse	State	American Fork	Leased	3	27,588	8	8	8	24
2607	2	Davis	Courthouse	State	Bountiful	Leased	2	26,804	8	8	9	25
2621	3	Summit	Courthouse	State	Park City (Silver Summit)	Leased	2	15,100	9	8	10	27
2635	4	Utah	Courthouse	State	Spanish Fork	Leased	2	31,779	9	9	9	27
2666	8	Duchesne	Courthouse	State	Duchesne	Leased	1	7,013	9	9	9	27
2625	4	Juab	Courthouse	State	Nephi	Leased	1	3,080	9	9	10	28
2643	5	Iron	Courthouse	State	Parowan	Leased	1	3,077	N/A	N/A	N/A	-
Total								192,453				
The new Seventh District Court facility in Carbon County Price City will be open spring 2018												

All Court Facilities by District 2018												
Facility #	District	County	Facility Type	State / Contract	Unit Name	Leased / Owned	Courtrooms	Square Feet	Security	Condition	Adequacy	Total
2602	1	Box Elder	Courthouse	State	Brigham City	Owned	3	35,000	9	9	9	27
2603	1	Cache	Courthouse	State	Logan	Owned	6	73,644	9	9	10	28
2604	1	Rich	Courthouse	Contract	Randolph	Leased	1	2,415	3	5	10	18
2607	2	Davis	Courthouse	State	Bountiful	Leased	2	26,804	8	8	9	25
2608	2	Davis	Courthouse	State	Farmington	Owned	10	131,699	7	8	9	24
2610	2	Davis	Courthouse	State	Layton	Owned	2	20,025	7	6	9	22
2611	2	Morgan	Courthouse	State	Morgan	Leased	1	2,727	2	4	7	13
2612	2	Weber	Courthouse	State	Ogden Dist	Owned	11	91,000	8	8	9	25
2614	2	Weber	Courthouse	State	Ogden JV	Owned	3	87,000	9	10	10	29
2618	3	Salt Lake	Courthouse	State	Matheson	Owned	37	417,000	9	8	10	27
2619	3	Salt Lake	Courthouse	State	West Jordan	Owned	10	117,439	9	8	10	27
2621	3	Summit	Courthouse	State	Park City (Silver Summit)	Leased	2	15,100	8	8	10	26
2622	3	Tooele	Courthouse	State	Tooele	Owned	2	58,968	9	9	10	28
2625	4	Juab	Courthouse	State	Nephi	Leased	1	3,080	9	9	10	28
2627	4	Millard	Courthouse	Contract	Fillmore	Leased	1	8,598	4	7	9	20
2628	4	Utah	Courthouse	State	American Fork	Leased	3	27,588	8	8	8	24
2629	4	Utah	Courthouse	State	Orem	Owned	4	16,080	3	5	5	13
2631	4	Utah	Courthouse	State	Provo Dist	Owned	9	59,928	3	5	1	9
2633	4	Utah	Courthouse	State	Provo JV	Owned	3	18,303	3	5	4	12
2634	4	Utah	Courthouse	Contract	Salem	Leased	-	104	N/A	N/A	N/A	N/A
2635	4	Utah	Courthouse	State	Spanish Fork	Leased	2	31,779	9	9	9	27
2637	4	Wasatch	Courthouse	State	Heber City	Leased	1	10,043	8	7	5	20
2640	5	Beaver	Courthouse	State	Beaver	Leased	1	7,088	3	8	9	20
2641	5	Iron	Courthouse	State	Cedar City	Owned	3	17,037	7	7	7	21
2643	5	Iron	Courthouse	State	Parowan	Leased	1	3,077	N/A	N/A	N/A	-
2644	5	Washingto	Courthouse	State	St George	Owned	8	95,550	7	10	10	27
2647	6	Garfield	Courthouse	Contract	Panguitch	Leased	1	2,481	6	9	9	24
2648	6	Piute	Courthouse	Contract	Junction	Leased	1	4,120	6	8	9	23
2649	6	Kane	Courthouse	State	Kanab	Leased	1	3,846	5	8	9	22
2651	6	Sanpete	Courthouse	State	Manti	Leased	2	7,301	3	3	5	11
2653	6	Sevier	Courthouse	State	Richfield	Owned	2	19,839	8	9	9	26
2654	6	Wayne	Courthouse	Contract	Loa	Leased	1	2,600	2	2	9	13
2657	7	Carbon	Courthouse	State	Price	Leased	3	18,279	3	3	3	9
2658	7	Emery	Courthouse	State	Castle Dale	Leased	1	8,800	6	8	9	23
2659	7	Grand	Courthouse	State	Moab	Leased	1	11,936	5	7	9	21
2661	7	San Juan	Courthouse	State	Monticello	Leased	1	3,206	4			

Contract site

Utah State Court Facility Master Plan 2018

Facility Master Plan Purpose

The Capital Development prioritization list for State Courts system was established in 2001. We annually evaluate and update the prioritization of future Capital Development requests, recognizing changes in the Courts systems, aging facilities, leased facilities and contract sites that do not comply with the current design guidelines.

This study looks at all court facilities as of January 1, of the current year. The study evaluates the facility's security, building condition and adequacy (court function), as described below.

Scoring

Building Security Score 0 to 10

0 does not meet any current standards - 10 meets all current standard

Building Condition Score 0 to 10

0 Fails to meet needs, 10 New (very good)

Building Adequacy Score 0 to 10

0 fails to meet needs - 10 meets all current needs

Evaluation criteria

Security

- Does the building meet current security standards
- Can the building be renovated to bring the building up to current
- Security check points in the building
- Does the building have camera systems
- Does the building have access control systems
- Security equipment (x-ray – metal detector)

Condition

- Does the building meet current building standards
- Can the building be renovated to bring the building up to current
- Building location

Adequacy

- Number of courtroom / number of judges
- Courtroom utilization
- Clerical work area
- Probation work area
- Building renovation potential

Tab 4

2019 Schedule

Management Committee		Judicial Council		
January 8	12:00 p.m.	January 28	9:00 a.m.	State of the Judiciary is scheduled for January 28
February 19	12:00 p.m.	February 25	9:00 a.m.	Normal schedule
February 25	After Council meeting			To set March St. George agenda
March – no meeting		March 8	12:00 p.m.	In conjunction with the bar conference in St. George
April 9	12:00 p.m.	April 22	9:00 a.m.	Normal schedule
May 14	12:00 p.m.	May 20	9:00 a.m.	Memorial Day is May 27
June 11	12:00 p.m.	June 24	9:00 a.m.	Normal schedule
July 9	12:00 p.m.	July 18	9:00 a.m. or 12:00 pm	In conjunction with the bar conference in Park City
August 13	12:00 p.m.			Normal schedule
August 23	After Council meeting	August 23	All day	In conjunction with annual budget & planning meeting Management Committee meeting held to set Council's September agenda
September – no meeting		September 10	12:00 p.m.	In conjunction with annual conference
October 8	12:00 p.m.	October 28	9:00 a.m.	Normal schedule
November 12	12:00 p.m.	November 25	9:00 a.m.	Veteran's Day is November 11 Thanksgiving is November 28
December 10	12:00 p.m.	December 16	9:00 a.m.	Fourth Monday is December 23

Bar spring convention March 7-9, 2019 (St. George)

Bar summer convention July 18-21, 2019 (Park City)

Bar Fall Forum November 2, 2019 (SLC)

Courts Annual conference September 10-13, 2019

CCJ Midyear Meeting Clearwater, FL., February 9-13, 2019

CCJ Annual Meeting Asheville, NC, July 27-31, 2019

COSCA Annual Meeting Asheville, July 27-31, 2019

COSCA Fall Board Meeting Washington, DC November 20, 2019 (tent.)

COSCA Midyear Meeting Galveston, TX December 5-7, 2019

Tab 5



Alex G. Peterson
Executive Director

State of Utah

JUDICIAL CONDUCT COMMISSION

1385 S. State St., Suite #143
Salt Lake City, Utah 84115
Telephone: (801) 468-0021

TO Judicial Council

FROM Alex G. Peterson

DATE May 10, 2017

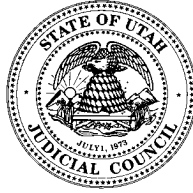
RE Biannual JCC Executive Director's Report

MESSAGE

Thanks for the opportunity to update the Judicial Council. Here's a list of the topics I will cover. Please advise if any additional material is desired.

1. JCC Membership Update
2. JCC Caseload Update
3. Misc. Activities of JCC

Tab 6



Administrative Office of the Courts

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

May 1, 2018

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Management Committee/Judicial Council
FROM: Shane Bahr, District Court Administrator
RE: Committee Vacancy

Name of Committee: Child Support Guidelines Committee

Reason For Vacancy – Judge McClellan has been serving on this committee and his term has come to an end.

Length of Term : 4 years

Committee Membership:

78B-12-401. Advisory committee -- Membership -- Expiration.

(1) (a) On or before May 1, 2018, and then on or before May 1 of every fourth year subsequently, the governor shall appoint a child support guidelines advisory committee consisting of:

- (i) one representative recommended by the Office of Recovery Services;
- (ii) one representative recommended by the Judicial Council;**
- (iii) two representatives recommended by the Utah State Bar Association;
- (iv) two representatives of noncustodial parents;
- (v) two representatives of custodial parents;
- (vi) one representative with expertise in economics; and
- (vii) subject to Subsection (1)(b), two representatives from diverse interests related to child support issues, as the governor may consider appropriate.

Description of Recruitment process: I circulated an email to all District Court Judges and Commissioners.

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

Other Information: Historically, this committee has met once a month for two hours. The meeting has been held on a Monday from 4:00 to 6:00, but this could be adjusted based on the committee's needs. Also noted - because there is significant work to be done to meet the new Federal regulations requirement, there may be a need to meet more frequently on some occasions.

Names for Consideration:

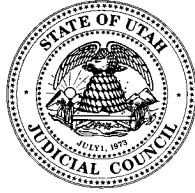
Commissioner Christina Wilson – 1st and 2nd Districts

I have experience with child support as a domestic commissioner for a little over one year and in private practice for approximately 14 years where I practiced primarily family law. I am on the Second District Pro-Bono committee and I am on the board of the Litigation Section of the Utah State Bar. Please let me know if you need any additional information. Thank you for your time.

Commissioner T.R. Morgan – 2nd District

I would like to be considered for the position on the Child Support Advisory Committee. I have been a District Court Commissioner in the 2nd District since July 2016. Before that, approximately half of my private practice was in family law. If you have any questions, please do not hesitate to contact me. Thank you.

The Board of District Court Judges voted to have Commissioner T.R. Morgan serve.



Administrative Office of the Courts

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

April 23, 2018

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: District Judge Vacancy

Name of Committee: Standing Committee on Pretrial Release and Supervision

Reason for Vacancy: The vacancy was created when Judge Paige Petersen took the Supreme Court Bench.

Eligibility requirements: Each of these vacancies are required pursuant to CJA 1205(1)(B)(xiii)

Current Committee Membership:

LAST NAME	FIRST NAME	ROLE
Carlos	Wayne	Commercial Surety Agent
Fonnesbeck	Angela	Juvenile Court Judge
Harmond	George	District Court Judge
Hillyard	Lyle	State Senator
Hutchings	Eric	State Representative
Johnson	Brent	Court's General Counsel
Kimball	Pat	Representative of County Pretrial Services Agency
McCullagh	Brendan	Justice Court Judge
Romney	Rick	Justice Court Judge
Trupp	Adam	Representative of Counties
Carver	Scott	County Sheriff (Represented by Undersheriff)
Stringham	Reed	Representative of Utah Insurance Department
Tangaro	Cara	Defense Attorney
Crandall	Kimberly	Prosecutor
Thompson	Marshall	CCJJ
Vacant		District Court Judge

Description of Recruitment process: Shane Bahr circulated an email to all District Court Judges.

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

Names for Consideration:

- **Judge Ed Peterson** - 8th District
 - I would be interested in being appointed to this committee. I am currently on the Governors Interstate Compact committee which meets quarterly, but have been on that committee several years.
 - **Bio.** - Judge Edwin T. Peterson was appointed to the Eighth District Court in September 2009 by Gov. Gary R. Herbert. He serves Daggett, Duchesne, and Uintah counties. Judge Peterson is the presiding judge of the Eight District Court. Judge Peterson served as Deputy Uintah County Attorney prior to his appointment. He also has served as an Assistant Utah Attorney General in the Child Protection Division, a Pro Tem District Court Judge in the Third Circuit Court in West Valley, and as the Murray City Prosecutor. Prior to serving as a prosecutor, he was in private practice in Salt Lake County. After law school and admission to the practice of law, Judge Peterson served four years active duty as a Captain in the U.S. Air Force as a Judge Advocate. Judge Peterson received a law degree from the University of Utah College of Law, a bachelor's degree from Utah State University.
- **Judge William Kendall** – 3rd District.
 - I am interested in serving on the Pretrial Release and Supervision Committee. At this time I am not serving on any other committees. I have served on the bench for a bit over three years, assigned a primarily criminal calendar. Prior to my time on the bench I was a federal and state prosecutor, and thus have dealt with pretrial release and supervision issues for nearly my entire career.
 - **Bio.** - Judge William K. Kendall was appointed to the Third District Court in December 2014 by Governor Gary Herbert. He serves Salt Lake, Summit and Tooele counties. Judge Kendall received dual bachelor's degrees in political science and communication from Miami University in Oxford, Ohio in 1993. He graduated with a juris doctorate from the University of Richmond, Virginia in 1996 where he was the executive editor on the founding editorial board of the Richmond Journal of Law and Technology. Prior to his judicial appointment, he worked as an assistant U.S. attorney and the deputy violent crimes section chief at the United States Attorney's Office for the District of Utah where he received the U.S. Attorney's Award and the People's Choice Award. At the U.S. Attorney's Office he served as both the anti-gang and robbery coordinator and prosecuted federal racketeering, robbery, firearm, narcotics, and child pornography cases. Prior to this, he served as a deputy district attorney for Salt Lake County where worked as a trial attorney prosecuting all types of state criminal cases.
- **Judge Paul Parker** – 3rd District
 - **Bio.** - Judge Paul B. Parker was appointed to the Third District Court in July 2013 by Governor Gary Herbert. He serves Salt Lake, Summit, and Tooele counties. Judge Parker served as a police officer for the Vernal City Police Department from 1978 to 1985. He graduated with a Bachelor of Science degree in Police Science from Weber State University in 1985 and a law degree from the University of Utah in 1988. Judge Parker worked as a deputy Salt Lake County District Attorney from 1989 until his appointment to the bench. The majority of Judge Parker's career was spent as a trial attorney prosecuting felony crimes, including child abuse, sexual assault, and homicide.

Recommendation: The Board of District Court Judges recommends that the Judicial Council appoint Judge William Kendall as the district judge representative on this committee.

Tab 7

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Substitution of Counsel or Licensed
Paralegal Practitioner**
(Utah Rule of Civil Procedure 74)

Case Number

Judge

Commissioner (domestic cases)

1. I notify the court, counsel and parties that I am replacing
_____ (name of lawyer or
Licensed Paralegal Practitioner) as counsel or paralegal practitioner for
_____ (name of client).

2. I will comply with the existing hearing schedule and deadlines.

Date _____ Signature ► _____

Printed name of former counsel
or licensed paralegal practitioner _____

Date _____ Signature ► _____

Printed name of client _____

Date _____ Signature ► _____

Printed name of new counsel
or licensed paralegal practitioner _____

Certificate of Service

I certify that I filed with the court and served a copy of this Substitution of Counsel or Licensed Paralegal Practitioner on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

☐ This is a private record.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

	Initial Disclosures (Utah Rule of Civil Procedure 26(a)(1))
Plaintiff/Petitioner	Case Number _____
v.	Judge _____
Defendant/Respondent	Commissioner (domestic cases) _____

Instructions:

Do not file this form with the court unless the court orders you to do so. File only the Certificate of Service of Initial Disclosures form, which shows when and how you served this document on the other parties.

I _____ (name) provide the following initial disclosures:

- Discoverable information** (Utah Rule of Civil Procedure 26(a)(1)(A)) (Choose one):
☐ These are the people who likely have discoverable information supporting my claims or defenses:

Name	
Address (if known)	
Phone (if known)	
Information they have about the case	

Name	
Address (if known)	
Phone (if known)	
Information they have about the case	

Name	
Address (if known)	
Phone (if known)	
Information they have about the case	

☐ I do not know of any people who likely have discoverable information supporting my claims or defenses.

2. **Witnesses** (Utah Rule of Civil Procedure 26(a)(1)(A)) (Choose one):

☐ These are the witnesses I may call.

Name	
Address (if known)	
Phone (if known)	
Summary of	

expected testimony

Name

Address (if known)

Phone (if known)

Summary of
expected testimony

Name

Address (if known)

Phone (if known)

Summary of
expected testimony

☐ I do not plan to call any witnesses.

3. **Documents supporting my case** (Utah Rule of Civil Procedure 26(a)(1)(B)) (Choose one):

☐ I have attached copies of all documents supporting my case.

☐ I do not know of or have any documents supporting my case.

4. **Electronically Stored Information** (Utah Rule of Civil Procedure 26(a)(1)(B)) (Choose one):

☐ I have possession or control of electronically stored information supporting my case.

Describe: _____

☐ I do not know of or have electronically stored information supporting my case.

5. **Tangible Things** (Utah Rule of Civil Procedure 26(a)(1)(B)) (Choose one):

☐ I have possession or control of tangible things supporting my case.

Describe: _____

☐ I do not know of or have any tangible things supporting my case.

6. **Documents referred to in my pleadings** (papers you filed) (Utah Rule of Civil Procedure 26(a)(1)(E)) (Choose one):

☐ I have attached copies of all documents referred to in my pleadings.

☐ I do not refer to any documents in my pleadings, or any documents referred to in my pleadings have already been filed.

7. **Damages** (Utah Rule of Civil Procedure 26(a)(1)(C)) (Choose one):

☐ My estimate of damages claimed is \$ _____. I have attached documents supporting this amount.

☐ Not applicable.

8. **Agreement to Satisfy, Indemnify, or Reimburse** (Utah Rule of Civil Procedure 26(a)(1)(D)) (Choose one):

☐ I have attached a copy of any agreement where someone else might have to pay the judgment, or reimburse me for the judgment, including insurance.

☐ Not applicable.

I will update these disclosures if any additional information becomes available. (Utah Rule of Civil Procedure 26(d)(5)).

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Purchaser/Assignee of the Judgment
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's ☐ Purchaser/Assignee's
(Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner ☐ Defendant/Respondent's ☐ Purchaser/Assignee's
(Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Motion to Renew Judgment and
Supporting Affidavit**

(Utah Code 78B-6-1801 et seq.)

☐ Hearing Requested

Case Number

Judge

1. I request the court renew the judgment in this case for the amount due. I ask the renewal be effective on the date the new judgment is signed or the date the original judgment expires, whichever is earlier.
2. On _____ (date) this court entered judgment against
☐ Plaintiff/Petitioner ☐ Defendant/Respondent
in this case. The judgment expires on _____ (date).

3. (Choose one.)

☐ I am the original judgment creditor.

☐ I currently own the judgment, but I am not the original judgment creditor. I have attached proof that I own the judgment. (Attach proof of ownership, such as an assignment or proof of purchase or affidavit of the original judgment creditor.)

4. The judgment debtor owes:

Amount of judgment (Original or as last renewed by motion, whichever is later.)	\$
Post-judgment interest to the date of this affidavit at _____% per year	\$
Fee to file applications for writs of garnishment or writs of execution (Attach receipts.)	\$
Garnishees' fees (Attach receipts.)	\$
Cost to serve writs (Attach receipts.)	\$
Attorney fees (Attach statute or contract showing right to claim attorney fees.)	\$
Fee to file Motion to Renew Judgment (One-half the fee for a civil claim of the same amount.)	\$
Subtotal	\$
Less payments made	\$
Total amount due	\$

5. The statute of limitations on the judgment has not expired.

6. ☐ The judgment debtor has stipulated to this motion. (Attach stipulation.)

7. The address provided in the certificate of service below is the most current known address of the judgment debtor.

8. ☐ I request a hearing.

☐ I do not request a hearing.

Date
Signature ► _____
Printed Name _____

On this date, I certify that _____ (name)
who is known to me or who presented satisfactory identification, in the form of _____
(form of identification), has, while in my
presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

Date
Signature ► _____
Printed name (Court Clerk or Notary Public) _____

Notary Seal

Notice to responding party

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion is considered by a judge, or
- at least 14 days before the hearing, if the motion is considered by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:
www.utcourts.gov/howto/filing/motions/index.html

Finding help

The court's Finding Legal Help web page

[The Spanish text is meant to be an example only.
It is not yet a translation of the English text]

Casos de Desalojo

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Reclamos menores

En la mayor parte de las demandas

(www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Renew Judgment and Supporting Affidavit on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____
 Printed Name _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #:_____)

☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner

☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #:_____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Notice of Withdrawal of Counsel or
Licensed Paralegal Practitioner**
(Utah Rule of Civil Procedure 74)

Case Number

Judge

Commissioner (domestic cases)

1. I notify the court, counsel and parties that I am withdrawing as counsel or licensed paralegal practitioner for:

Client's Name _____

Address _____

City, State,
ZIP _____

2. There are no motions pending. There are no hearings scheduled. There is no trial scheduled, or there has been a substitution of counsel. (If there are motions pending and/or there are hearings scheduled and/or there is a trial scheduled, a separate Motion to Withdraw must be filed.)

3. [] I entered a limited appearance on behalf of my client, and the purpose for that appearance is finished.
 (An attorney or licensed paralegal practitioner may withdraw after completing the purpose of a limited appearance even though a motion is pending or a hearing or trial has been scheduled, provided the limited appearance was not for the purpose of that motion, hearing or trial.)

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Notice of Withdrawal of Counsel on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

This is a private record.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

	Parenting Plan (Utah Code 30-3-10.7 through 30-3-10.10)
<hr/> Petitioner	<hr/> Case Number
<hr/> v.	<hr/> Judge
<hr/> Respondent	<hr/> Commissioner

Utah law requires the following:

- A joint physical custody arrangement may result in denial of cash assistance under the Employment Support Act, Title 35A, Chapter 3, of the Utah Code.
- The objectives of a parenting plan are to:
 - provide for the children's physical care and emotional stability;
 - provide for the children's changing needs in a way that minimizes the need to change the parenting plan;
 - minimize the children's exposure to conflict between the parents;
 - state the authority and responsibilities of each parent to the children;
 - encourage the parents to meet their responsibilities to their children through agreement rather than judicial decision; and

- protect the best interests of the children.
- Each parent must follow the parenting plan even if the other does not. If a parent does not follow the parenting plan, the court may find that parent in contempt of court.
- For further guidance, see Utah Code 30-3-33

This parenting plan is: (Choose all that apply.)

☐ agreed to by petitioner and respondent.

☐ proposed by ☐ petitioner ☐ respondent.

1. Family information

Petitioner

Name	
Street Address	
City, State, Zip	
Phone	
Email	

Respondent

Name	
Street Address	
City, State, Zip	
Phone	
Email	

Minor Children

Child's name (first, middle and last)	Child's gender	Month and year of birth

--	--	--

2. **Parent-time** (Choose one.)

☐ The parents will follow the parent-time schedule in the statute(s).

The children will live with ☐ petitioner ☐ respondent and will have parent-time with the other parent according to the statutory parent-time schedule. That parent will be the “custodial” parent:

(You can find the Utah Code at le.utah.gov/xcode/code.html. Print and attach a copy of the statute(s) for the option(s) you choose.)

☐ Children under 5 (Utah Code 30-3-35.5)

☐ Children 5-18 (Utah Code 30-3-35)

☐ Children 5-18 (expanded schedule) (Utah Code 30-3-35.1)

For children 5-18 the parents choose the following.

Weekday parent-time will be on this day: (Choose one.)

☐ Monday

☐ Thursday

☐ Tuesday

☐ Friday

☐ Wednesday

If not specified, the weekday is Wednesday.

On school days parent-time starts: (Choose one.)

☐ at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on weekends).

☐ when school is out.

On days when school is not in session parent-time starts: (Choose one.)

☐ at the standard time (5:30 p.m. on weekdays; 6 p.m. on weekends).

☐ at the morning time listed in the statute (depending on custodial parent’s work schedule) if the noncustodial parent is able to be with the child:

- 9:00 a.m. (30-3-35).
- 8:00 a.m. (30-3-35.1).

☐ The parents will make our own parent-time schedule.

The children will live with ☐ petitioner ☐ respondent and will have parent-time with the other parent for the following days and times:

- ☐ The above choices do not fit this parenting plan. Instead, the parent-time schedule will be as follows:

3. **Parent-time for special occasions**

(Choose one.)

- ☐ The parents will follow the holiday schedule in the statute(s) for special occasions. The

☐ petitioner

☐ respondent

will be the custodial parent for purposes of the holiday.

- ☐ **On school days**, holiday parent-time starts: (Choose one.)

☐ at the time listed for the holiday.

☐ when school is out until 7:00 p.m. on the last day of the holiday weekend.

- ☐ **On days when school is not in session**, holiday parent-time starts: (Choose one.)

☐ at the time listed for the holiday

☐ at approximately 9:00 a.m. on the first day of the holiday period until 7:00 p.m. on the last day of the holiday weekend (depending on custodial parent's work schedule) if the noncustodial parent is able to be with the child.

[] The parent-time schedule for special occasions is as described below. If a schedule for a special occasion is not described, the regular schedule applies.

(Describe the children's parent-time schedule as needed. For example, Thanksgiving: Even-numbered years with petitioner; odd-numbered years with respondent. From Wednesday at 6 p.m. to Friday at 6 p.m.)

Special Occasion	Parent-Time Schedule
Labor Day Weekend	
Columbus Day Weekend	
Fall School Break	
Halloween	
Veterans' Day	
Thanksgiving Break	
Winter School Break	
Christmas Eve	
Christmas Day	
New Year's Eve	
New Year's Day	
Dr. MLK, Jr. Day Weekend	
Presidents' Day Weekend	
Spring School Break	
Mother's Day	
Memorial Day Weekend	

Special Occasion	Parent-Time Schedule
Father's Day	
Summer School Break / Vacation	
Independence Day	
Pioneer Day	
Children's Birthdays	
Petitioner's Birthday	
Respondent's Birthday	
Other Religious Holiday	
Other Civic or School Holiday	
Other Special Occasion	
Other Special Occasion	

4. **Parent-time transfers**

Pick-up and drop-off ("transfers") of the children for parent-time will be as described below (Choose one.):

☐ Transfer at **beginning** of parent-time will be by:

☐ Petitioner

☐ Respondent

☐ Other adult _____ (name)
picking up/dropping off the children at this address:

and transfer at **end** of parent-time by:

☐ Petitioner

☐ Respondent
☐ Other adult _____ (name)
picking up/dropping off the children at this address:

☐ Curbside transfers (The parent/person picking up or dropping off the children does not leave the vehicle and the other parent/person does not leave the residence).

☐ Other pick-up/drop-off arrangement (Describe in detail.):

5. **Decision-making**

The following applies to the Parenting Plan:

- Each parent will make day-to-day decisions for the children during the time they are caring for the children.
- Either parent may make emergency decisions affecting the health or safety of the children. A parent who makes an emergency decision must share the decision with the other parent as soon as reasonably possible.

(Choose one.)

☐ **Joint decision-making.**

The parents will share responsibility for making major decisions about the children. If there is a disagreement, the parents will resolve the dispute as provided in the Resolving disputes section below.

Other:

☐ **Sole decision-making.**

The following parent will make decisions about:

Education

☐ Petitioner ☐ Respondent

Health care

☐ Petitioner ☐ Respondent

Religious upbringing

☐ Petitioner ☐ Respondent

Other:

6. Education plan

Location of school (Choose one.)

☐ The school the children will attend is based on:

☐ Petitioner's home residence

☐ Respondent's home residence

☐ Other specific plan for where the children will attend school:

School access

The following people have authority to check the children out of school:

☐ Petitioner

☐ Respondent

☐ Other _____ (name)

The following people have access to the children during school:

☐ Petitioner

☐ Respondent

☐ Other _____ (name)

Education decisions

If the parents cannot agree, education decisions will be made by:

☐ Petitioner

☐ Respondent

7. Communication with each other

Parents will communicate with each other: (Choose all that apply.)

☐ by any method

- ☐ in person
- ☐ by telephone
- ☐ by texting
- ☐ by letter
- ☐ by e-mail
- ☐ other (describe): _____

8. Communication with the children

The parents agree they will:

- provide age-appropriate help to the children to communicate with the other parent.
- give the children privacy during their communication with the other parent. The parents will not interfere with or monitor communication between the children and the other parent.

Parents and children may communicate with each other: (Choose all that apply.)

- ☐ Whenever the children choose.
- ☐ At any reasonable times (Specify.):
 - ☐ weekends and holidays:
between _____ am/pm and _____ am/pm
 - ☐ school days:
between _____ am/pm and _____ am/pm
 - ☐ school vacation days:
between _____ am/pm and _____ am/pm

Parents may communicate with the children by following method: (Choose all that apply.)

- ☐ by any method
- ☐ in person
- ☐ by telephone
 - ☐ parents will maintain voice mail so the children can leave and receive messages.
- ☐ by texting
- ☐ by letter
- ☐ by e-mail
- ☐ other (describe): _____

☐ Other terms about communication with the children:

9. Records and information sharing

(Choose all that apply.)

☐ Both parents will have access to records and the ability to consult with providers regarding education, child care, and health care.

☐ Other terms regarding records and information sharing:

10. Travel by the children

During their parent-time, the parent may consent for the children to travel with a sports team, religious group, school group, relatives, friends, by themselves, or with others.

☐ If the children will be travelling for more than _____ days, the parent arranging the travel will notify the other parent at least _____ days in advance. That parent will give the other parent the travel schedule, locations and phone numbers at least _____ days in advance. In case of emergency, the parent will provide as much notice as possible.

☐ Other agreements about travel by the children:

11. Military service by a parent

Changes in the parent-time schedule due to deployment are temporary changes. After return of the military parent, this plan will be fully in effect. (Utah Code 78B-20-4).

12. Child care

(Choose all that apply.)

☐ A child care provider for our children must be:

☐ a licensed child care provider.

☐ a relative, friend or neighbor.

☐ over the age of _____.

☐ other qualifications: _____

☐ Other terms about child care:

13. Relocation of a parent

(Choose all that apply.)

☐ If either parent moves more than 149 miles from the other parent, Utah Code 30-3-37 will apply.

☐ Neither parent may relocate with the minor children more than ____ miles from their current residence without a written agreement signed by the parties or further court order.

☐ Other terms about relocating:

14. Changing the plan

This plan remains in effect until changed. A change must be agreed to by both of us and in the following manner:

- ☐ All changes must be in writing
- ☐ Major or permanent changes must be in writing, but minor or temporary changes can be made orally
- ☐ Other

15. **Resolving disputes**

If the parents need to resolve a dispute regarding the children, they will discuss the issues in good faith and try to reach an agreement based on what is best for their children.

If the parents are unable to agree, they will go to the following before bringing the issue to the court (Choose all that apply.):

- ☐ mediation
- ☐ arbitration
- ☐ counseling
- ☐ Other agreements about resolving disputes:

16. ☐ **Other terms that are important to us or our children**

(Describe)

17. ☐ Additional parenting responsibilities, expectations or commitments:

18. This plan is made in good faith and is in the best interests of the children.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date Signature ► _____
Petitioner's Printed Name _____

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date Signature ► _____
Respondent's Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Parenting Plan on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ►

Printed Name

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Notice to Appear or to Appoint
Counsel or Licensed Paralegal
Practitioner**

(Utah Rule of Civil Procedure 74)

Case Number

Judge

Commissioner (domestic cases)

1. I am notifying you that because your counsel has withdrawn from this case, you must file a Notice of Personal Appearance or Appointment of Counsel or Licensed Paralegal Practitioner.
2. No further proceedings will be held in this case until at least 21 days after _____ (Date on which this notice is filed.).
3. A Notice of Personal Appearance or Appointment of Counsel or Licensed Paralegal Practitioner form is attached for your convenience.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Notice to Appear Personally or to Appoint Counsel or Licensed Paralegal Practitioner on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's ☐ Defendant/Respondent's
Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's ☐ Defendant/Respondent's
Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Memorandum Opposing Motion to Renew Judgment</p> <p><input type="checkbox"/> Hearing Requested</p> <p>_____ Case Number</p> <p>_____ Judge</p>
---	---

I say the following about the Motion to Renew Judgment and Supporting Affidavit:

1. I agree completely with everything stated in the following numbered paragraphs of the motion (Write the paragraph number(s) from the motion.):

2. I disagree with all or part of the following numbered paragraphs of the motion
(Write the paragraph number(s) from the motion.):

3. ☐ I disagree with the calculation of the amount owed. The amount I owe is:

Amount of judgment (Original or as last renewed by motion, whichever is later.)	\$
Post-judgment interest to the date of this affidavit at _____% per year	\$
Fee to file applications for writs of garnishment or writs of execution. (Attach receipts.)	\$
Garnishees' fees (Attach receipts.)	\$
Cost to serve writs (Attach receipts.)	\$
Attorney fees (Attach statute or contract showing right to claim attorney fees.)	\$
Fee to file Motion to Renew Judgment (One-half the fee for a civil claim of the same amount.)	\$
Subtotal	\$
Less payments made	\$
Total amount due	\$

4. I also say:

5. ☐ I request a hearing.
☐ I do not request a hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____
Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Memorandum Opposing Motion to Renew Judgment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
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Date

Signature ► _____

Printed Name _____

This is a private record.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Petitioner

v.

Respondent

Certificate of Service of Initial Disclosures

(Utah Rule of Civil Procedure 26(f))

Case Number

Judge

Commissioner (domestic cases)

I certify that I served a copy of my Initial Disclosures on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date _____ Signature ► _____
 Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Certificate of Service of Initial Disclosures on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
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Signature ►

Date

Printed Name

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

☐ **Notice of Personal Appearance**
OR
☐ **Notice of Counsel's or Licensed**
Paralegal Practitioner's Appearance

Case Number

Judge

Commissioner (domestic cases)

1. _____ (name of
former attorney) has filed a Notice of Withdrawal.

(Check 2 or 3, whichever applies.)

2. ☐ I now represent myself.
OR

3. ☐ I now represent _____ (name of client).

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Notice of Personal Appearance or Notice of Counsel's or Licensed Paralegal Practitioner's Appearance on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
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	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____
Printed Name _____

Name

Address

City, State, Zip

Phone

Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Findings of Fact and Conclusions of
Law and Order on Motion to Renew
Judgment**

Case Number

Judge

The matter before the court is the judgment creditor's Motion to Renew Judgment. This matter is being resolved by: (Choose all that apply.)

- ☐ The default of ☐ Plaintiff/Petitioner ☐ Defendant/Respondent.
☐ The stipulation of the parties.
☐ The pleadings and other papers of the parties.
☐ A hearing held on _____ (date), notice of which was served on all parties.

Plaintiff/Petitioner

☐ was present ☐ was not present.

☐ was represented by _____ (name).

☐ was not represented.

Defendant/Respondent

☐ was present ☐ was not present.

☐ was represented by _____ (name).

☐ was not represented.

Other party (Describe) _____

☐ was present ☐ was not present.

☐ was represented by _____ (name).

☐ was not represented.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

The court finds:

1. This court ☐ did ☐ did not enter a judgment in this case.
2. The Motion to Renew Judgment ☐ was ☐ was not filed before the statute of limitations on the judgment expired.
3. The Motion to Renew Judgment ☐ was ☐ was not properly served.
4. ☐ The judgment in this case has been purchased by or assigned to _____ (name).
5. The motion includes an affidavit that contains an accounting of the original judgment and all post-judgment payments, credits, and other adjustments which are provided for by law or are contained within the original judgment.
6. The judgment has not been fully paid.
7. The time for responding to the motion has expired.
8. The required fee has been paid or waived.

The court concludes:

9. The judgment creditor ☐ has ☐ has not satisfied the requirements for renewing a judgment by motion.

The court orders:

10. The Motion to Renew Judgment is ☐ granted ☐ denied.

11. ☐ The judgment is renewed as of the date of this order or the date the original judgment was to expire, whichever occurred first.

Judge's signature may instead appear at the top of the first page of this document.

_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

_____	Signature ►	_____
Date	Plaintiff/Petitioner, Attorney, or Licensed Paralegal Practitioner	_____

_____	Signature ►	_____
Date	Defendant/Respondent, Attorney, or Licensed Paralegal Practitioner	_____

_____	Signature ►	_____
Date	Other Party, Attorney, or Licensed Paralegal Practitioner	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Findings of Fact and Conclusions of Law and Order on Motion to Renew Judgment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

This is a private record.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Petitioner ☐ Respondent
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: _____)
☐ Petitioner's Licensed Paralegal Practitioner
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Petitioner</p> <p>v.</p> <p>_____ Respondent</p>	<p>Exhibit Summary (For voluminous exhibits in Commissioner proceedings; Utah Rule of Civil Procedure 101)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	---

1. I am the ☐ petitioner ☐ respondent.
2. I am submitting this Exhibit Summary with the court instead of filing the voluminous exhibit (more than 10 pages) that supports my:
 - ☐ Motion to _____ (name of motion)
 - ☐ Memorandum Opposing Motion to _____
(name of motion)
 - ☐ Reply to Memorandum Opposing Motion to _____
(name of motion)

[] Other _____

(Utah Rule of Civil Procedure 101(h)(3).)

3. I have provided the other party with a complete copy of the exhibit.
4. I know that I must bring the original or copy of the complete exhibit to the hearing.
5. One or more of my exhibits is longer than 10 pages. I am providing a summary of those exhibits as a chart, list, spreadsheet or calculation. Copies of the exhibits have been provided to all parties and will be available at any hearing.

For each exhibit summary provide a name, a brief summary of the contents, and explain the "foundation" – how you came to have the item, or what you know about the item to prove it is authentic. (Attach additional sheets if needed.)

Example

Name	Exhibit D
Summary of Contents	Itemized list of medical expenses.
Foundation	Compiled from statements from the insurance company.

Name	
Summary of Contents	
Foundation	

Name	
Summary of Contents	
Foundation	

Name	
Summary of Contents	
Foundation	

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Exhibit Summary on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ►

Printed Name

In the ☐ District ☐ Justice Court of Utah
_____ Judicial District _____ County
Court Address _____

Plaintiff/Petitioner v. Defendant/Respondent	Abstract of Judgment (Utah Rule of Civil Procedure 58A; Utah Code 78B-5-201 and 202) Case Number _____ Judge _____ Commissioner (domestic cases) _____
--	---

1. On _____ (date) a judgment was entered by the above court in favor of _____ (name) and against _____ (name) in the amount of: _____.
2. The judgment was recorded in the registry of judgments on _____ (date).
3. The time for appeal has passed and no appeal has been filed.
4. The judgment:
☐ has not been stayed.
☐ has been stayed until _____ (date).
5. A copy of the judgment is attached.

This is a correct abstract of the judgment rendered in this court, and is issued under the seal of this court.

Date
Signature ► _____
Clerk's Printed Name _____

Judgment Information Statement

(Utah Code 78B-5-201.) (This document is not filed with the court. It is filed with the county recorder.)

My name is _____ and I am the judgment creditor in the following court case:

Case name (Example: Party v. Party)	
Case number	
Court name and county (Example: Third District Court, Tooele County)	

I provide the following information in compliance with Utah Code Section 78B-5-201.

1. The correct name of the judgment debtor is

_____.

2. The correct last known address of the judgment debtor is:

_____.

3. The address at which the judgment debtor received service of process is:

_____.

4. The judgment debtor is (choose one):

☐ a natural person, and (if known)

Last four digits of Social Security Number	
Date of birth	
Driver license number	

☐ is not a natural person (For example, a business.).

5. The name of the judgment creditor is: _____.

6. The amount of the judgment is: \$ _____.

7. The judgment was entered on: _____ (date).
8. The judgment (Choose one.):
[] has been stayed and the stay expires on _____ (date).
[] has not been stayed.
9. The judgment creditor has reviewed their records, the records of their attorney (if there is one), and the records of the court in which the judgment was entered. Any information required by law but not provided by this statement is unknown and unavailable. (Utah Code 78B-5-201.)

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Purchaser/Assignee of the Judgment

☐ Plaintiff/Petitioner's
Attorney

☐ Defendant/Respondent's

☐ Purchaser/Assignee's
(Utah Bar #:_____)

☐ Plaintiff/Petitioner's
Licensed Paralegal Practitioner

☐ Defendant/Respondent's

☐ Purchaser/Assignee's
(Utah Bar #:_____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Acknowledgement of Satisfaction of
Judgment**

Case Number

Judge

Commissioner (domestic cases)

1. A judge of this court signed the judgment in this case on _____
(date).

2. (Choose one.)

☐ I am the original judgment creditor.

☐ I currently own the judgment, but I am not the original judgment creditor. I
have attached proof that I own the judgment. (Attach proof of ownership, such as
an assignment or proof of purchase or affidavit of the original judgment creditor.)

3. The judgment has been fully satisfied.
4. This acknowledgement discharges the entire judgment.
5. This acknowledgement releases all of the judgment debtors.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Acknowledgement of Satisfaction of Judgment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ►

Printed Name

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>V.</p> <p>_____ Defendant/Respondent</p>	<p>Application for Writ of Execution (Utah Rule of Civil Procedure 64E)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	---

Instructions: You must include the following records and forms with this application.

- Writ of Execution (proposed).
- Notice of Execution and Exemptions for each person named in Paragraphs 3, 5 and 6 of this document.
- Reply and Request for Hearing Form for each person named in Paragraphs 3, 5 and 6 of this document.
- Check payable to the Sheriff, Constable or Private Investigator who will be serving the Writ.
- Check payable to the court for the filing fee.
- Abstract of judgment, if this court did not enter the judgment.

1. On _____ (date) judgment against [] plaintiff/petitioner [] defendant/respondent was entered in the amount of \$_____.

2. The amount due is:

Amount of original judgment	\$
Post-judgment interest www.utcourts.gov/resources/intrates/interestrates.htm	\$
Cost to file Application for Writ of Execution	\$
Cost to serve this writ	\$
Filing and service fees for other writs (Attach receipts.)	\$
Subtotal	\$
Less payments made	\$
Total amount due	\$

3. The judgment debtor is:

Name	
Address	
Social Security Number (Last 4 digits only, if known.)	
Driver's license number and state of issuance (Last 4 digits only, if known.)	
Year and month of birth (If known.)	

4. I request that a Writ of Execution be issued directing the sheriff or constable to seize and sell enough of the judgment debtor's property described below to satisfy the judgment. I request that the Writ be served on the debtor and on the people named in paragraphs 5 and 6, along with the attached forms.

5. I request that the Writ of Execution direct the sheriff or constable to seize and sell the debtor's following **personal** property: (Anything that can be owned other than real estate. List real estate information in the next section.)

Description	Location	Estimated value
a.		\$
Name & address of anyone other than debtor claiming an interest:		
b.		\$

Name & address of anyone other than debtor claiming an interest:		
c.		\$
Name & address of anyone other than debtor claiming an interest:		
d.		\$
Name & address of anyone other than debtor claiming an interest:		
e.		\$
Name & address of anyone other than debtor claiming an interest:		
f.		\$
Name & address of anyone other than debtor claiming an interest:		
g.		\$
Name & address of anyone other than debtor claiming an interest:		
h.		\$
Name & address of anyone other than debtor claiming an interest:		
i.		\$
Name & address of anyone other than debtor claiming an interest:		
j.		\$
Name & address of anyone other than debtor claiming an interest:		
k.		\$
Name & address of anyone other than debtor claiming an interest:		
l.		\$
Name & address of anyone other than debtor claiming an interest:		
m.		\$
Name & address of anyone other than debtor claiming an interest:		
n.		\$
Name & address of anyone other than debtor claiming an interest:		
o.		\$

Name & address of anyone other than debtor claiming an interest:	
--	--

6. I request that the Writ of Execution direct the sheriff to seize and sell the debtor's following **real property** (real estate).

Property description or address	Estimated value	Name and address of anyone other than debtor claiming an interest
	\$	
	\$	
	\$	
	\$	

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____
Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Application for Writ of Execution on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____

Printed Name _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #:_____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #:_____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Request for Verification of Employment</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	---

Judgment creditor, you must attach:

- Copy of the judgment and the Judgment Information Statement
- Response to Request for Verification of Employment Form

1. To _____ (Name of employer)
2. This is a request for verification of employment. (Utah Code 78A-2-216)
3. Do you currently employ _____ (name), the judgment debtor?

Certificate of Service

I certify that I filed with the court and served a copy of this Request for Verification of Employment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____

Printed Name _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's ☐ Defendant/Respondent's
Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's ☐ Defendant/Respondent's
Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

_____	Debtor's Motion to Declare the Judgment Satisfied
_____	<input type="checkbox"/> Hearing Requested
Plaintiff/Petitioner	_____
v.	Case Number
_____	_____
Defendant/Respondent	Judge

1. A judge of this court signed the judgment in this case on _____
(date).
2. I am the judgment debtor, and I have paid the judgment in full, but the
owner/creditor has not filed an Acknowledgement of Satisfaction.
3. The judgment is currently owned by _____
(name of creditor/owner/purchaser/assignee).
4. I have attached the following documents showing that I have fully paid the
judgment (Choose all that apply.):

☐ supporting statement by _____ (name)

☐ receipts

☐ canceled checks (Mark out account number and routing number.)

☐ other _____

5. ☐ I request a hearing.

☐ I do not request a hearing.

6. The judgment has been fully satisfied, and I request the court enter an order declaring the judgment in this case is satisfied.

I declare under criminal penalty of the State of Utah that everything stated in this document is true.

Signature ►

Date Printed Name _____

Notice to responding party

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion is considered by a judge, or
- at least 14 days before the hearing, if the motion is considered by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed

[The Spanish text is meant to be an example only.
It is not yet a translation of the English text]

Casos de Desalojo

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos.

the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

www.utcourts.gov/howto/filing/motions/index.html

Finding help

The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Reclamos menores

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

Certificate of Service

I certify that I filed with the court and served a copy of this Debtor's Motion to Declare the Judgment Satisfied on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

Name

Address

City, State, Zip

Phone

Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>V.</p> <p>_____ Defendant/Respondent</p>	<p>Response to Request for Verification of Employment</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	---

Employer must respond within 10 days after receipt of the Request for Verification of Employment.

[] Yes, I currently employ

_____ (name).

[] No, I do not employ

_____ (name).

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I served a copy of this Response to Request for Verification of Employment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Judgment creditor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Judgment debtor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

	Writ of Execution
Plaintiff/Petitioner	Case Number
v.	Judge
Defendant/Respondent	Commissioner (domestic cases)

To the [] sheriff (to seize real property)

[] sheriff or constable (to seize personal property)

of _____ county (county in which property is located):

1. A judgment has been entered against the judgment debtor. After calculation of interest, costs and payments, the judgment debtor owes \$ _____.
2. You are directed to seize and sell enough of the judgment debtor's non-exempt property described in paragraphs 5 and 6 of the Application for Writ of Execution to satisfy that amount.
3. You are directed to serve this Writ and all attachments on the debtor and on the people named in paragraphs 5 and 6 of the Application for Writ of Execution.
4. You are to return this Writ within 10 days after receiving it, with a signed account of your actions in executing this Writ.

Date _____

Signature ► _____

Court Clerk _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #:_____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #:_____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

	Application for Writ of Garnishment
_____ Plaintiff/Petitioner	_____ Case Number
V.	_____ Judge
_____ Defendant/Respondent	_____ Commissioner (domestic cases)

Instructions: You must attach the following records and forms if they are not already filed with the court.

- Continuation pages, if any, to complete paragraphs that don't have enough space. Write the paragraph number on the continuation page.
- Writ of Garnishment, and Answers to Interrogatories for Property Other than Earnings (If applicable.).
- Writ of Continuing Garnishment, and Answers to Interrogatories for Earnings (If applicable.).
- Notice of Garnishment and Exemptions.
- Reply and Request for Hearing (2 copies.).
- Check payable to the garnishee for the fee required by statute (If this Application is electronically filed, the fee must be delivered to the garnishee when the Writ is served.).
- Check payable to the Sheriff, Constable or Private Investigator for serving the Writ.
- Check payable to the court for the filing fee.

1. I request a (Choose one.):

☐ Writ of Garnishment

☐ Writ of Continuing Garnishment

☐ Writ of Continuing Garnishment for Child Support

be issued and served upon each of the garnishees named below, along with the attached forms.

2. ☐ This is an Application for a Writ of Continuing Garnishment and: (Choose one.)

☐ The garnishee has verified the employment of the debtor.

☐ The garnishee has not responded to my Request for Verification of Employment.

☐ I have not requested verification of employment from the garnishee.

3. The amount due is:

Amount of original judgment	\$
Post-judgment interest	\$
Cost to file Application for Writ	\$
Cost to serve this Writ	\$
Garnishee's fee	\$
Filing, service and garnishee fees for other Writs (Attach receipts.)	\$
Subtotal	\$
Less payments made	\$
Total Amount Due	\$

4. The person who owes the money (judgment debtor) is:

Name	
Address	
Social security number (Last 4 digits only, if known.)	
Driver's license number and state of issuance (Last 4 digits only, if known.)	
Year and month of birth (If known.)	

5. I believe that the following people hold property of the judgment debtor.

Person holding property (Name, address, phone number.)	
Property description (If an account, include the location and last four digits of account number.)	
Estimated value of property	\$
Is the property earnings?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Person holding property (Name, address, phone number.)	
Property description (If an account, include the location and last four digits of account number.)	
Estimated value of property	\$
Is the property earnings?	<input type="checkbox"/> Yes <input type="checkbox"/> No

6. I believe that the following people claim an interest in the property. I request that the Writ of Garnishment be served upon each, along with the attached forms.

Name	
Address	
Phone number	

Name	
Address	
Phone number	

7. I will serve a check payable to the garnishee for the required fee. (Utah Code 78A-2-216 and Utah Rule of Civil Procedure 64D).

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____
Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Application for Writ of Garnishment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____
Printed Name _____

NOTICE OF EXECUTION AND EXEMPTIONS

Please read this carefully.

Your property may be taken to pay a creditor.

You have a deadline of 14 days in which to object.

1. A judgment for money has been entered against the judgment debtor (the person who owes money), and the creditor has taken steps to take your money or property to pay the judgment.
2. If you are the judgment debtor in this case, your rights may be affected. Read this notice and take steps to protect your rights.
3. If you are not the judgment debtor in this case, you may have an interest in the judgment debtor's property and your rights may be affected. Read this notice and take steps to protect your rights.
4. The court has ordered a sheriff or constable to seize your property. This means that it may be sold to pay the debt.
5. Some property and money can't be taken and are "exempt" from execution.

This is a **partial** list of exempt property and money. Some of these exemptions might not apply to judgments for alimony or child support.

- Declaration of Homestead, which must be filed with the county recorder before the auction of the property. (Utah Code 78B-5-504)
- A burial plot for you and your family.
- Health aids.
- Benefits because of disability, illness or unemployment.
- Medical care benefits.
- Veteran's benefits.
- Money or property for child support, alimony or separate maintenance.
- Social security benefits.
- Supplemental security income benefits (SSI).
- Workers' compensation benefits.
- Certain retirement benefits.
- Public assistance.
- Certain furnishings, appliances, carpets, animals, books, musical instruments, works of art and heirlooms.
- Provisions for 12 months.
- Wearing apparel, not including jewelry or furs.
- Beds and bedding.
- Certain works of art.
- Compensatory damages from bodily injury or wrongful death.

- The proceeds of certain life insurance contracts and trusts.
- Certain books, implements and tools of a trade.
- A personal motor vehicle up to a specified amount.
- A motor vehicle used in trade or business.
- Part of your wages.
- Property of a person who did not have a judgment entered against him or her, such as the co-owner of the property being held.

See the Utah Exemptions Act (Utah Code Title 78B, Chapter 5, Part 5) for more information about exemptions. There is no exemption solely because you are having trouble paying your debts.

6. If you think your property should not be taken because:

- statements in the Application for Writ of Execution are wrong;
- the Writ of Execution was not issued correctly; or
- some of your property should not have been taken because it is exempt

do the following immediately. You have a deadline of **14 calendar days** from the date that the Writ of Execution and this notice was delivered to you.

- Complete the attached Reply and Request for Hearing form.
- Sign your name in the space provided and write the address at which the court clerk should notify you of the hearing.
- Attach any documents that help you prove your claim.
- Mail or deliver the form to:
 - the court, and
 - the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner.

Keep a copy for your records. The name and address of the court are on the first page of the Writ of Execution. The address for the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner is:

Name

Address

City, State, Zip

Phone

Email

7. The court will schedule a hearing and notify you. You should file with the Reply and Request for Hearing form any documents that help you prove your claim, or bring them to the hearing.
8. If you do not take these steps, the property may be used to pay the judgment creditor even though it is exempt.
9. If your property is seized for sale, you may tell the officer who is conducting the sale the order in which to auction the property. For example, sell a boat first and a car second.
10. You may talk to an attorney and have the attorney represent you at the hearing. See the court's Finding Legal Help page for information about free and low cost ways to get the help of an attorney: www.utcourts.gov/howto/legalassist/.
11. The judgment debtor may not use the steps in paragraph 6 to challenge why the judgment was entered. If you are the judgment debtor and you think the judgment should not have been entered against you, possible options include:
 - an appeal. See the court's Appeals page for more information about the process and forms: www.utcourts.gov/howto/appeals/.
 - a Motion to Set Aside Judgment (Utah Rule of Civil Procedure 60(b)). See the court's Motion to Set Aside Judgment page for more information about the process and forms: www.utcourts.gov/howto/judgment/set_aside/.

Simply filing an appeal or Motion to Set Aside the Judgment does not stop the collection of the judgment.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Purchaser/Assignee of the Judgment

☐ Plaintiff/Petitioner's
Attorney

☐ Defendant/Respondent's

☐ Purchaser/Assignee's
(Utah Bar #:_____)

☐ Plaintiff/Petitioner's
Licensed Paralegal Practitioner

☐ Defendant/Respondent's

☐ Purchaser/Assignee's
(Utah Bar #:_____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Findings of Fact, Conclusions of
Law, and Order on Debtor's Motion
to Declare Judgment Satisfied**

Case Number

Judge

Commissioner (domestic cases)

The matter before the court is a motion by the debtor, who is the:

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

to declare the judgment in this case satisfied.

This matter is being resolved by (Choose all that apply.):

☐ The default of ☐ Plaintiff/Petitioner ☐ Defendant/Respondent.

☐ The stipulation of the parties.

☐ The pleadings and other papers of the parties.

☐ A hearing held on _____ (date).

Plaintiff/Petitioner

☐ was present ☐ was not present

☐ was represented by _____ (name).

☐ was not represented.

Defendant/Respondent

☐ was present ☐ was not present

☐ was represented by _____ (name).

☐ was not represented.

Other party (Describe) _____

☐ was present ☐ was not present.

☐ was represented by _____ (name).

☐ was not represented.

Having considered the documents filed with the court, the evidence and the arguments,
and now being fully informed,

The court finds: (Choose one.)

☐ The moving party has fully satisfied the judgment.

☐ The moving party has partially satisfied the judgment.

☐ The moving party has not satisfied any part of the judgment.

The court concludes: (Choose one.)

☐ The judgment is fully satisfied.

☐ The judgment is partially satisfied.

☐ The judgment is not satisfied.

The court orders: (Choose one.)

☐ The clerk of court record the judgment as fully satisfied.

[] The clerk of the court shall record the judgment remaining as of this date as \$_____ (balance of judgment owing, including all costs, fees, and interest to date).

[] The motion is denied.

Judge's signature may instead appear at the top of the first page of this document.

Date
Signature ► _____
Judge _____

Approved as to form.

Date
Signature ► _____
Plaintiff/Petitioner, Attorney or Licensed
Paralegal Practitioner

Date
Signature ► _____
Defendant/Respondent, Attorney or Licensed
Paralegal Practitioner

Date
Signature ► _____
Other Party, Attorney or Licensed Paralegal
Practitioner

Certificate of Service

I certify that I filed with the court and served a copy of this Findings of Fact, Conclusions of Law, and Order on Debtor's Motion to Declare Judgment Satisfied on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Certificate of Satisfaction of
Judgment**

Case Number

Judge

I certify as follows:

1. I am the clerk of this court.
2. The judgment entered in this case has been fully satisfied.
3. Satisfaction of judgment has been entered in the case history as of
_____ (date).

Date _____ Signature ► _____

Clerk's Printed Name _____

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Person Claiming Property Interest

☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney

☐ Attorney for Person Claiming Property Interest (Utah Bar #: _____)

Licensed Paralegal Practitioner for:

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Person Claiming Property Interest (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

**Reply and Request for Hearing –
Writ of Execution**

Plaintiff/Petitioner

v.

Defendant/Respondent

Case Number

Judge

Commissioner (domestic cases)

1. I have read the Notice of Execution and Exemptions form. I understand that I cannot use this form to challenge why the judgment was entered against me. I believe that the creditor has improperly seized some of my money or property to pay the judgment.

2. ☐ Statements in the Application for Writ of Execution are wrong because:

3. ☐ The Writ of Execution was not issued correctly because:

4. ☐ All or part of the property is exempt because:

5. ☐ This amount is exempt: \$ _____.

6. ☐ I am not the judgment debtor. I claim the following ownership in all or part of the property. (Explain.)

7. ☐ I have attached documents that support my claims.

8. I request a hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Reply and Request for Hearing – Writ of Execution on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

**Writ of Garnishment and
Instructions**

Plaintiff/Petitioner

v.

Defendant/Respondent

Case Number

Judge

Commissioner (domestic cases)

For more information about writs of garnishment, visit:
www.utcourts.gov/resources/forms/garnishment/.

In this document:

- A **judgment creditor** is a person or company with a court order saying money is owed to them.
- A **judgment debtor** is the person or company who owes the money.
- A **writ of garnishment** is an order that property now belonging to the judgment debtor but held by someone else be used to pay the money owed to the judgment creditor.
- **Interrogatories** are written questions which identify the property and the value of the property that might be used to pay the debt.

To:

Garnishee's Name _____

Address _____

1. Utah law requires the judgment creditor to include with this Writ of Garnishment a fee to you. If the fee was not included, sign here and return the forms to the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner.

Signature ► _____

2. A judgment has been entered against the judgment debtor. After calculation of interest, costs and payments, the judgment debtor owes \$ _____.

Papers filed with the court show that you may possess or control some of the judgment debtor's property which may include money earned, but not yet paid.

The property is being garnished (seized) in order to pay the judgment. If you are the garnishee, you are required to take certain steps to deliver the property or to hold and protect it. **If you do not, the court can order you to pay for the harm caused to the judgment creditor.** You should keep for your records a copy of everything that you prepare and everything that is served on you.

3. The person who owes money (judgment debtor) is:

Name	
Address	
Social security number (Last 4 digits only, if known.)	
Driver's license number and state of issuance (Last 4 digits only, if known.)	
Year and month of birth (If known.)	

4. Within 7 business days after this writ is served on you, you must:

- answer the attached Interrogatories;
- serve a copy of your Answers to Interrogatories on the judgment creditor, or if they have one, their attorney or licensed paralegal practitioner;
- serve a copy of the following papers on the judgment debtor and on any other person shown by your records to have an interest in the property. The papers to be served are:
 - one copy of this Writ of Garnishment;
 - one copy of your Answers to Interrogatories;
 - one copy of the Notice of Garnishment and Exemptions form; and
 - two copies of the Reply and Request for Hearing form.

5. You may serve the judgment creditor at this address by hand delivery or by first class mail:

Name
Address
City, State, Zip
Phone

Email

You may serve the judgment debtor at this address by hand delivery or by first class mail.

Name

Address

City, State, Zip

Phone

Email

6. What to do with the property:
 - DO NOT SEND THE PROPERTY TO THE COURT. You must withhold from the judgment debtor the amount shown in your Answers to Interrogatories. Hold the property for 21 calendar days after you serve the judgment debtor.
 - Wait 21 days.
 - If you receive a Reply and Request for Hearing within 21 days, hold the property until you receive further orders from the court directing you how to proceed.
 - If you do not receive a Reply and Request for Hearing within 21 days, deliver the property to the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner.
7. **If you do not take these steps, the court can order you to pay for the harm caused to the judgment creditor.**
8. You may deliver to the judgment debtor any property greater than you are required to withhold.
9. Multiple Writs of Garnishment for the same judgment debtor may be served on you, but only one Writ of Garnishment may be in effect at one time. You must satisfy the writs in the order they are served. When an earlier Writ of Garnishment expires or is satisfied, you must then satisfy the next writ.

However, a Writ of Continuing Garnishment in favor of the Office of Recovery Services or the Department of Workforce Services takes precedence over other writs and must be satisfied first.

A Writ of Continuing Garnishment in favor of the Office of Recovery Services or the Department of Workforce Services continues until fully satisfied, placing earlier writs on hold. These instructions do not apply to writs or orders entered by other courts or governmental agencies.

_____	Signature ►	_____
Date	Printed Name of Clerk of Court	_____

Certificate of Service

I certify that I served a copy of this Writ of Garnishment and Instructions on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Other party, attorney, or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Garnishee, attorney, or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Person claiming interest in property, attorney, or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

[] In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Court Address _____

	Writ of Continuing Garnishment and Instructions for [] Child Support [] Other
_____ Plaintiff/Petitioner	_____ Case Number
v.	
_____ Defendant/Respondent	_____ Judge
	_____ Commissioner

An employer who is served with the Writ of Garnishment can use the Online Court Assistance Program (OCAP - www.utcourts.gov/ocap) to calculate the amount to be withheld and prepare the Answers to Interrogatories form for filing instead of using the fill-in-the-blank Garnishee's Answers to Interrogatories form. Once you have created an OCAP account, login and go to **Garnishment / Answers to Interrogatories**.

For more information about writs of garnishment, go to:
www.utcourts.gov/resources/forms/garnishment/.

In this document:

- A **judgment creditor** is a person or company with a court order saying money is owed to them.
- A **judgment debtor** is the person or company who owes the money.
- A **writ of garnishment** is an order that property now belonging to the judgment debtor but held by someone else be used to pay the money owed to the judgment creditor.
- **Interrogatories** are written questions which identify the property and the value of the property that might be used to pay the debt.

To:

Garnishee's Name _____

Address

1. Utah law requires the judgment creditor to include with this Writ of Garnishment a fee to you. If the fee was not included, sign here and return the forms to the judgment creditor, or if they have one, their attorney or licensed paralegal practitioner.

Signature ► _____

2. A judgment has been entered against the judgment debtor. After calculation of interest, costs and payments, the judgment debtor owes \$ _____.

Papers filed with the court show that you may possess or control some of the judgment debtor's property which may include earnings not yet paid.

The property is being garnished (seized) in order to pay the judgment. If you are the garnishee, you are required to take certain steps to deliver the property or to hold and protect it. **If you do not, the court can order you to pay for the harm caused to the judgment creditor.** You should keep for your records a copy of everything that you prepare and everything that is served on you.

3. The person who owes money (judgment debtor) is:

Name	
Address	
Social security number (Last 4 digits only, if known.)	
Driver's license number and state of issuance (Last 4 digits only, if known.)	
Year and month of birth (If known.)	

4. Within 7 business days after this writ is served on you, you must:
 - answer the attached Interrogatories;
 - serve a copy of your Answers to Interrogatories on the judgment creditor, or if they have one, their attorney or licensed paralegal practitioner;
 - serve a copy of the following papers on the judgment debtor and on any other person shown by your records to have an interest in the property. The papers to be served are:
 - one copy of this Writ of Continuing Garnishment;
 - one copy of your Answers to Interrogatories;
 - one copy of the Notice of Garnishment and Exemptions form; and
 - two copies of the Reply and Request for Hearing form.

5. You may serve the judgment creditor at this address by hand delivery or by first class mail:

Name

Address

City, State, Zip

Phone

Email

You may serve the judgment debtor at this address by hand delivery or by first class mail.

Name

Address

City, State, Zip

Phone

Email

6. This Writ of Continuing Garnishment is effective for one year after the date it was served on you, or for 120 calendar days if another writ of continuing garnishment is served on you. Within 7 business days after the close of each pay period occurring within the term of continuing garnishment, you must:

- answer the attached Interrogatories;
- serve a copy of your Answers to Interrogatories on the judgment creditor, or if they have one, their attorney or licensed paralegal practitioner; the judgment debtor and on any other person shown by your records to have an interest in the property.

7. What to do with the property:

- DO NOT SEND THE PROPERTY TO THE COURT. You must withhold from the judgment debtor the amount shown in your Answers to Interrogatories. Hold the property for 21 calendar days after you serve the judgment debtor.
- Wait 21 days.

- If you receive a Reply and Request for Hearing within 21 days, hold the property until you receive further orders from the court directing you how to proceed.
- If you do not receive a Reply and Request for Hearing within 21 days, deliver the property to the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner.

8. **If you do not take these steps, the court may hold you responsible for the value of the property you should have withheld.**
9. You may deliver to the judgment debtor any property greater than you are required to withhold.
10. Multiple Writs of Garnishment for the same judgment debtor may be served on you, but only one Writ of Garnishment may be in effect at one time. You must satisfy the writs in the order in which they are served. When an earlier Writ of Garnishment expires or is satisfied, you must then satisfy the next writ.

However, a Writ of Continuing Garnishment in favor of the Office of Recovery Services or the Department of Workforce Services takes precedence over other writs and must be satisfied first.

A Writ of Continuing Garnishment in favor of the Office of Recovery Services or the Department of Workforce Services continues until fully satisfied, placing earlier writs on hold. These instructions do not apply to writs or orders entered by other courts or governmental agencies.

	Signature ►	
Date	Printed Name of Clerk of Court	

Certificate of Service

I certify that I filed with the court and served a copy of this Writ of Continuing Garnishment and Instructions on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Other party or attorney)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Garnishee)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Person claiming interest in property)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date _____ Signature ► _____
 Printed Name _____

Name

Address

City, State, Zip

Phone

Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>V.</p> <p>_____ Defendant/Respondent</p>	<p>Garnishee's Answers to Interrogatories for Property Other Than Earnings</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	--

An employer can use the Online Court Assistance Program (OCAP - www.utcourts.gov/ocap) to calculate the amount to be withheld and prepare the Answers to Interrogatories form instead of using this form. Once you have created an OCAP account, login and go to **Garnishment / Answers to Interrogatories**.

Write your answers in the spaces provided. Add additional pages if necessary.

1. Do you possess or control any property in which judgment debtor has an interest? (Property includes real and personal property, including money.)

ANSWER: [] Yes [] No

If "no," skip the remaining questions, sign this form, and mail it as indicated. If "yes," answer the remaining questions.

2. If you answered “yes” in the previous question, explain in the table below.

Description of property	Nature of judgment debtor's interest in the property	The property is due to the judgment debtor on: (date)	Value of judgment debtor's interest in the property
			\$
			\$
			\$
Total*			\$

(*Unless you deduct an amount under paragraph 3, this is the amount you must withhold from the judgment debtor. The Writ of Garnishment directs what to do with the property.)

3. You may deduct from the amount to be withheld money owed to you by the judgment debtor or the judgment creditor, if the amount of money owed is not disputed.

ANSWER: Undisputed amount owed to you: \$_____ by
☐ Judgment debtor ☐ Judgment creditor

4. Do you know about any of the judgment debtor's other property or other money owed to judgment debtor?

ANSWER: ☐ Yes ☐ No

5. If yes, please explain in the table below.

ANSWER:

Description of property	
Name and address of person with possession	
Nature and value of judgment debtor's interest	

Description of property	
Name and address of person with possession	
Nature and value of judgment debtor's interest	

Description of property	
Name and address of person with possession	
Nature and value of judgment debtor's interest	

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____
Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Garnishee's Answers to Interrogatories for Property other than Earnings on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Judgment creditor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Judgment debtor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Person claiming interest in property or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

Name

Address

City, State, Zip

Phone

Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>V.</p> <p>_____ Defendant/Respondent</p>	<p>Garnishee's Answers to Interrogatories for Earnings</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	--

An employer who is garnishing earnings can use the Online Court Assistance Program (OCAP - www.utcourts.gov/ocap/) to calculate the amount to be withheld and prepare the Answers to Interrogatories form for filing instead of using this form. Once you have created an OCAP account, login and go to **Garnishment / Answers to Interrogatories**.

1. Do you employ the judgment debtor?

ANSWER: [] Yes [] No

If "no," skip the remaining questions, sign this form, and mail it as indicated. If "yes," answer the remaining questions.

2. Are there other Writs of Continuing Garnishment in effect?

ANSWER: [] Yes [] No

3. If there are other Writs of Continuing Garnishment in effect, when will they expire?

ANSWER: _____

4. What is the judgment debtor's pay period?

ANSWER:

☐ Weekly ☐ Monthly
☐ Biweekly ☐ Other (Describe): _____
☐ Semi-monthly

5. What is the pay period to which these answers relate?

ANSWER: Start Date: _____ End Date: _____ *

* The Writ served on you with this form is effective for one year after the date of service, or for 120 days after the date of service of another writ of continuing garnishment. If the days of the garnishment term end before the end date of the pay period, you are not required to withhold money from the debtor. Skip the remaining questions, sign this form, and mail it as indicated. Otherwise calculate the amount to be withheld.

6. Calculate the amount to be withheld from the judgment debtor. (Assume you are calculating this on the last day of the pay period for which these answers apply.)

(a) Gross earnings from all sources payable to the judgment debtor (Including wages, salaries, commissions, bonuses, or earnings from a pension or retirement program. Tips are generally not considered earnings for wage garnishment.)	\$
(b) Deductions required by law	
(b)(i) Federal income tax	\$
(b)(ii) State income tax	\$
(b)(iii) Social security tax (FICA)	\$
(b)(iv) Medicare tax (FICA)	\$
(b)(v) Other amounts required by law to be deducted (Describe reason for deduction.):	\$
(c) Total deductions (Calculate sum of 4(b)(i) through 4(b)(v).)	\$
(d) Disposable earnings (Calculate Line 4(a) minus Line 4(c).)	\$
(e) Calculate:	
(e)(i) 25% of the amount in Line 4(d); or, if this is a judgment for child support, 50% of the amount in Line 4(d)	\$

(e)(ii) The difference between Line 4(d) and the federal minimum hourly wage \$7.25) times 30 times the number of weeks in this pay period For example: (Weekly): Line 4(d) minus \$7.25 X 30 X 1 week) (Biweekly): Line 4(d) minus \$7.25 X 30 X 2 weeks) (Semi-monthly): Line 4(d) minus \$7.25 X 30 X 2.16 weeks) (Monthly): Line 4(d) minus \$7.25 X 30 X 4.33 weeks)	\$
(f) Record the lesser amount from Line 4(e)(i) and Line 4(e)(ii).	\$
(g) Amount of any other garnishment or income withholding order.	\$
(h) Calculate and record Line 4(f) minus Line 4(g)	\$
(i) Amount deducted for an undisputed debt owed to you by the (Check one, both or neither.) [] judgment creditor [] judgment debtor	\$
(j) Calculate and record Line 4(h) minus Line 4(i).	\$
(k) What is the balance owed on the judgment? (You may contact the judgment creditor or judgment creditor's attorney to obtain the outstanding balance.)	\$
(l) Record the lesser amount from Line 4(j) and Line 4(k). (This is the amount to be withheld.)	\$

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Garnishee's Answers to Interrogatories for Earnings on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Judgment creditor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Judgment debtor or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Person claiming interest in property or attorney or licensed paralegal practitioner)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

NOTICE OF GARNISHMENT AND EXEMPTIONS

Please read this carefully.

Your property may be taken to pay a creditor.

You have a deadline of 14 days in which to object.

1. A judgment for money has been entered against the judgment debtor, and the creditor has taken steps to garnish (seize) their money or property to pay the judgment.
2. If you are the judgment debtor in this case, your rights may be affected. Read this notice and take steps to protect your rights.
3. If you are not the judgment debtor in this case, you may have an interest in the judgment debtor's property and your rights may be affected. Read this notice and take steps to protect your rights.
4. The court has ordered the garnishee to hold your money or property. This means that you cannot get the property and it may be used to pay a judgment creditor.
5. Some property and money can't be taken and are "exempt" from execution.

This is a **partial** list of exempt property and money. Some of these exemptions might not apply to judgments for alimony or child support.

- Declaration of Homestead. (The Declaration must be filed with the county recorder before the auction of the property. (Utah Code 78B-5-504.))
- A burial plot for you and your family.
- Health aids.
- Benefits because of disability, illness or unemployment.
- Medical care benefits.
- Veteran's benefits.
- Money or property for child support, alimony or separate maintenance.
- Social security benefits.
- Supplemental security income benefits (SSI).
- Workers' compensation benefits.
- Certain retirement benefits.
- Public assistance.
- Certain furnishings, appliances, carpets, animals, books, musical instruments, works of art and heirlooms.
- Provisions for 12 months.
- Wearing apparel, not including jewelry or furs.
- Beds and bedding.
- Certain works of art.
- Compensatory damages from bodily injury or wrongful death.

- The proceeds of certain life insurance contracts and trusts.
- Certain books, implements and tools of a trade.
- A personal motor vehicle up to a specified amount.
- A motor vehicle used in trade or business.
- Part of your wages.
- Property of a person who did not have a judgment entered against him or her, such as the co-owner of the property being held.

See the Utah Exemptions Act (Utah Code Title 78B, Chapter 5, Part 5) for more information about exemptions. There is no exemption solely because you are having trouble paying your debts.

6. If you think your property should not be taken because:

- the Writ of Garnishment was not issued correctly,
- the Answers to Interrogatories are wrong,
- the judgment creditor owes you money, or
- you are entitled to an exemption,

do the following immediately. You have a deadline of **14 days** from the date the garnishee mailed or delivered this notice to you.

- Complete the attached Reply and Request for Hearing form.
- Sign your name in the space provided.
- Mail or deliver a copy of the form to:
 - the court,
 - the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner, and
 - the garnishee.

Keep a copy for your records. The name and address of the court, and the garnishee are on the first page of the Writ of Garnishment. The address for the judgment creditor or, if they have one, their attorney or licensed paralegal practitioner is:

Name

Address

City, State, Zip

Phone

Email

8. The court will schedule a hearing and notify you. You should file with the Reply and Request for Hearing form any documents that help you prove your claim, or bring them to the hearing.
9. If you do not take these steps, the property being held may be used to pay a judgment creditor.
10. You may talk to an attorney and have the attorney represent you at the hearing. See the court's Finding Legal Help page for information about free and low cost ways to get the help of an attorney: www.utcourts.gov/howto/legalassist/.
11. The judgment debtor may not use the steps in paragraph 6 to challenge why the judgment was entered. If you are the judgment debtor and you think the judgment should not have been entered against you, possible options include:
 - an appeal. See the court's Appeals page for more information about the process and forms: www.utcourts.gov/howto/appeals/.
 - a Motion to Set Aside Judgment (Utah Rule of Civil Procedure 60(b)). See the court's Motion to Set Aside Judgment page for more information about the process and forms: www.utcourts.gov/howto/judgment/set_aside/.

Simply filing an appeal or Motion to Set Aside the Judgment does not stop the collection of the judgment.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

	Reply and Request for Hearing
_____ Plaintiff/Petitioner	_____ Case Number
v.	_____ Judge
_____ Defendant/Respondent	_____ Commissioner (domestic cases)

1. I have read the Notice of Garnishment and Exemptions form. I understand that I cannot use this form to challenge why the judgment was entered against the judgment debtor. I believe that the creditor has improperly garnished money or property to pay the judgment.
2. The garnished property is:
☐ Funds in an account
☐ Wages
☐ Other property (Describe): _____

3. ☐ The Writ of Garnishment was not issued correctly because:

4. ☐ The Answers to Interrogatories are wrong because:

5. ☐ All or part of the property is exempt because it is:

- ☐ Benefits because of disability, illness or unemployment.
- ☐ Medical care benefits.
- ☐ Veteran's benefits.
- ☐ Social security benefits.
- ☐ Supplemental security income benefits (SSI).
- ☐ Workers' compensation benefits.
- ☐ Retirement benefits.
- ☐ Public assistance.
- ☐ Money for child support, alimony or separate maintenance.
- ☐ Compensatory damages from bodily injury or wrongful death.
- ☐ The proceeds of a life insurance contract or trust.
- ☐ Exempt wages.
- ☐ Owned by another person.
- ☐ Other. (Explain):

6. ☐ This amount is exempt: \$ _____.

7. [] The judgment creditor owes me money because:

8. [] I claim ownership of all or part of the money or property taken, but I am not
 the judgment debtor. (Explain.)

9. I request a hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Reply and Request for Hearing on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Motion to Enforce Writ of
Garnishment**

(Motion for Order to Show Cause)

Case Number

Judge

Commissioner (domestic cases)

Attach:

- Certificate of Service showing service upon the garnishee of the Writ of Garnishment
- Order to Garnishee to Show Cause

1. I am the judgment creditor, and I have had the Writ of Garnishment served on
_____ (name),
the garnishee.

2. The deadline to comply with the Writ of Garnishment was _____ (date), which has passed. The garnishee has not complied with the Writ of Garnishment by failing to:

3. I have tried to settle the issue without further court action. I have in good faith discussed or attempted to discuss the issue with the garnishee.
4. I request that the court order the garnishee to explain why they should not be held in contempt or why the court should not make other orders, including reimbursement for the cost of this motion.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

Certificate of Service

I certify that I filed with the court and served a copy of this Motion Enforce Writ of Garnishment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Order to Garnishee to Appear and
Explain Failure to Comply with Writ
of Garnishment**

Case Number

Judge

Commissioner (domestic cases)

The State of Utah to _____, garnishee:

1. It appears from court records that you were served with a Writ of Garnishment and ordered to complete interrogatories.
2. A motion has been filed requesting that you appear in court and explain why you should not be held in contempt for failing to comply with the Writ. The moving party claims:

3. **It is contempt of court to disobey a lawful court order.** The court can punish you by ordering you to pay:
 - up to \$1000 in fines and serve up to 30 days in jail (district court);
 - up to \$500 in fines and serve up to 5 days in jail (justice court);
 - the full amount of the judgment, court costs, and attorney's fees.
4. The court has scheduled a hearing on the Motion to Enforce Writ of Garnishment at the above court at the following date and time. You must appear to explain

why you did not comply with the Writ of Garnishment. You should bring with you all relevant evidence and witnesses. You may be represented by a lawyer.

Courthouse Address (Spanish): _____

Date (Fecha): _____ Time (Hora): _____ [] a.m. [] p.m.

Room (Sala): _____

Judge or Commissioner (Juez or Comisionado): _____

Attendance

You must attend. If you do not attend, you might be held in contempt of court and the relief requested might be granted. You have the right to be represented by a lawyer.

Evidence

Bring with you any evidence that you want the court to consider.

Interpretation

If you do not speak or understand English, the court will provide an interpreter. Contact court staff immediately to ask for an interpreter.

ADA Accommodation

If you need an accommodation, including an ASL interpreter, contact court staff immediately to ask for an accommodation.

Finding help

The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help

Asistencia

Presentarse es obligatorio. Si usted no llegara a presentarse, se lo podría encontrar en desacato de las órdenes del juez y la reparación solicitada podría ser otorgada. Usted tiene el derecho de que lo represente un abogado.

Pruebas

Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.

Interpretación

Si usted no habla ni entiende el Inglés contacte al Representante de Servicios Judiciales por lo menos 3 días antes de la audiencia y le proveerán un intérprete.

Atención en caso de incapacidades

Si usted tiene una incapacidad por la cual requiere atención especial, favor de contactar al Representante de los Servicios Judiciales por lo menos 3 días antes de la audiencia.

Finding help

Si usted tiene una incapacidad por la cual requiere atención especial, favor de contactar al Representante de los Servicios Judiciales por lo menos 3 días

Center, reduced-fee attorneys, limited legal help and free legal clinics.	antes de la audiencia.
---	------------------------

A <language> version of this document is available on the court's website:
www.utcourts.gov

(in as many of the languages as we provide)

Judge's signature may instead appear at the top of the first page of this document.

	Signature ►	
Date	Judge	

Certificate of Service

I certify that I filed with the court and served a copy of this Order to Garnishee to Show Cause on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____

Printed Name _____

Tab 8



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator

TO: Members of the Judicial Council Management Committee

FROM: Dawn Marie Rubio, J.D.
Utah Juvenile Court Administrator
Commissioner, Interstate Compact for Juveniles

DATE: May 8, 2018

RE: Proposed Probation Policies Review and Approval

The Board of Juvenile Court Judges, Juvenile Trial Court Executives, Statewide Chiefs of Probation, and the Probation Policy Workgroup vetted the following policies which are now advanced to Management Committee for review and consideration.

Section 2.1, Preliminary Interview [Recommendation to Approve]—This policy required revision in order to conform to changes in statute resulting from HB 239 last year, and HB 132 this year. Significant changes include shortening timeframes, and clarifying the purposes for preliminary interviews in both the nonjudicial adjustment and the petitioning processes.

Section 4.2, Supervision Classification n/k/a Intake and Formal Probation [Recommendation to Approve]—This policy, which dates back to 2001, required revision in order to conform to changes in statute resulting from HB 239 last year. The purpose of the policy is to provide direction to probation officers as to when a youth is placed on either *Intake* or *Formal Probation*, and to provide clarity regarding the “field supervision” designation.

Section 4.1, Probation Order [Recommendation to Delete]—This policy was inconsistent with HB 239 requirements, which prohibited the use of “control oriented” terms of probation, and emphasized individualized case planning. As an alternative to separate probation orders, we are recommending six standard terms of probation, which could instead be added to existing court orders.

Section 2.12, Serious Youth Offender [Recommendation to Approve]—Changes to this policy are recommended to clarify the role and responsibilities of probation officers in *Serious Youth Offender* proceedings.

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.

Section 2.13, Certification Report [Recommendation to Approve]—Changes in this policy are recommended to clarify probation officer responsibilities in *Certification* proceedings, specifically, the timing and methods of providing certification reports to parties.

Section 4.11, Foreign National Minors [Recommendation to Approve]— During its January 2018 meeting, the Management Committee asked the Board of Juvenile Court Judges to revisit this policy in light of a recent and serious 3rd District criminal case involving a foreign born youth. The Board revisited this policy during its February meeting and reviewed the associated *Sentence, Judgment, and Commitment* Order from the 3rd District case. The Board remains steadfast in its approach as the policy strikes a balance between probation’s affirmative role [or lack thereof] and cooperation with ICE.

This Policy is back before the Management Committee for approval. The Board of Juvenile Court Judges approved this policy in March 2017. The updates to this policy include: (1) changes the title from *Non-Resident Aliens* to *Foreign National Minors* to reflect consistent language in *Best Practices: Addressing Immigration Issues in the Juvenile Court*; (2) clarifies that the role of the probation officer is not to determine or inquire about immigration or foreign national status; and (3) provides guidance as to when a probation officer can communicate with ICE--if directed by the court or at the request of ICE. The policy also includes a link to a website providing a list of consulates and countries that may require a mandatory notification

Additionally, I request that these policies are placed on the Judicial Council’s consent agenda for May 21, 2018.

I will be available to respond to questions during your meeting on May 8, 2018.

Thank you.

cc:

Honorable Jim Michie, Chair-Board of Juvenile Court Judges

ATTACHMENTS

[Close Window](#)

Utah State Courts

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Section 2.1 Preliminary Inquiry

[Table of Contents](#)[View Addendums for this Policy](#)

Policy:

The Preliminary Inquiry shall be completed on all delinquent matters, with the exception of those excluded by Rule, to determine whether the interests of the public or of the minor require further action to be taken by the Court. The Probation Officer may hold an initial interview with the minor and the parent(s), the guardian(s), or the custodian(s).

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- [UCA 78A-6-602\(2\)\(b, c, & d\)](#)
- Utah Rules of Judicial Administration
 - Juvenile Court Operations - [Rule 7-301](#)
- Utah Rule of Juvenile Procedure - [Rule 15](#), [Rule 45](#)

Procedure:

1. After the court has received the referral, a preliminary determination should be made by the probation department to determine whether the facts reported are legally sufficient to give the court jurisdiction. In order to make this determination, the probation department may seek the assistance of the county/district attorney.
2. If it is determined that the facts are not insufficient to justify proceeding forward with the matter, the probation department may refer the matter back to the complainant requesting further information or stating the reasons for refusing to proceed with the matter.
3. The probation officer shall schedule the preliminary inquiry with the minor and the parent(s) or the guardian(s) within fourteen (14) calendar days of the incident being assigned in CARE. receipt of the intake referral. Appointments may be made by phone or mail and special needs should be determined.
 - 3.1 If it is established that the minor is in the custody of the Division of Child and Family Services, the court will:
 - 3.1.1.1 Date and time of the preliminary inquiry or diversion/non-judicial group program.
 - 3.1.1.2 Date and time of all hearings on the matter(s).
 - 3.1.2 May notify the assigned Guardian ad Litem in writing regarding the delinquency allegation as well as the date and time of the preliminary inquiry or diversion/non-judicial group program.
 - 3.1.3 The probation officer may access the SAFE management information system through CARE to determine the assigned DCFS case worker and assigned GAL.
4. The probation officer shall utilize the district process in obtaining victim information in regard to restitution.
5. The probation officer shall research court obligations prior to the preliminary inquiry interview.
6. During the interview, the probation officer will verify the information contained in the case history and will attempt to gather statistical data and identifying information needed to complete the case profile in CARE. The minor's age shall be verified to insure jurisdiction. The probation officer shall advise the parties of the following:
 - 6.1 The Preliminary Inquiry interview shall only be held if there is a parent(s) or guardian(s) present with the minor.
 - 6.2 The probation officer has no judicial authority and the Preliminary Inquiry interview is not a court hearing.
 - 6.3 The purpose of the Preliminary Inquiry is to determine whether further action is necessary and whether the matter may be closed without the filing of a petition.
 - 6.4 The interview is voluntary and may be terminated at anytime at the request of the minor, the parent(s), guardian(s), or the custodian(s).

- 6.5 The minor may obtain an attorney for the Preliminary Inquiry process.
 - 6.6 The minor must be informed of the alleged offense and that the age of the minor gives the court jurisdiction.
 - 6.7 Information discussed during the Preliminary Inquiry cannot be used during adjudication, but may be used for dispositional purposes.
7. If the minor or parent(s) become abusive or threatening during the Preliminary Inquiry interview, the interview shall be terminated.
8. The probation officer shall give a brief description of the charges. The probation officer shall ascertain the minor's desire to admit the allegation(s) or deny the allegation(s).
- 8.1 If the minor admits the allegation(s), a determination shall be made whether to handle the matter by filing of a petition or by a non-judicial handling.
 - 8.2 If the minor denies the allegation(s), the interview may be terminated. The probation officer or the county/district attorney may then file a petition.
 - 8.3 If the minor denies the allegation(s), the interview may not continue unless the minor and parent/guardian or custodian give their written consent to gather social information using the Utah State Juvenile Court Notice & Acknowledgment to Legal Rights of Minors and Parents (Addendum 2.1.1).
9. A dispositional report will be made regarding all admitted matters.
- 9.1 If the matter is petitioned before the Court, a written dispositional report shall be filed with the Court [[UCA 78A-6-605](#) (See [Policy 2.8, Dispositional Report](#))]
 - 9.2 If the matter is closed through a non-judicial adjustment, the written report may be completed on the back of the case history. (See [Policy 2.4 Non-Judicial Adjustment](#))

History: Effective September 26, 2007 - Revised November 19, 2010

Addendum 2.1.1 Notice and Acknowledgment to Legal Rights of Minors and Parents

- [Utah State Juvenile Court Notice & Acknowledgment to Legal Rights of Minors and Parents](#)

[Table of Contents](#) | [Next](#)

Section 2.1 Preliminary Interview

Policy:

This policy provides direction for probation officers when conducting a preliminary interview with a minor and their parent/guardian regarding a referral to the Juvenile Court.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- UCA 78A-6-602

Procedure:

1. The probation officer shall conduct a preliminary interview with every minor who is referred to the court. If the minor is in the custody of the Division of Child and Family Services or Division of Juvenile Justice Services, the probation officer shall notify the assigned caseworker or Guardian ad Litem and provide information regarding the referral.
 - 1.1. If the referral has not been petitioned, an appointment for the preliminary interview shall be scheduled with the minor and the minor's parents or guardians within 14 days of the referral being assigned to the probation officer in CARE.
 - 1.2. If the referral has been petitioned, the probation officer shall make every attempt to schedule the preliminary interview with the minor and the minor's parents or guardians prior to the court hearing or within 14 days of the referral being assigned to the probation officer in CARE.
2. The purpose of the preliminary interview when a referral has not been petitioned is to:
 - 2.1. verify and/or update information contained in the CARE case profile;
 - 2.2. review the rights of the minor using the Notice and Acknowledgement to Legal Rights of Minors (pre-petition) form;
 - 2.2.1. The probation officer shall reschedule the interview if the minor and/or parents or guardians requests time to retain a private attorney.
 - 2.2.2. The probation officer shall postpone the interview and send the referral to the prosecutor if the minor or parent/guardian requests a court appointed attorney.
 - 2.3. gather social information (written consent required);
 - 2.4. conduct assessments as outlined in Policy 2.7;
 - 2.4.1. The probation officer shall postpone the interview and send the referral to the prosecutor if a minor and/or parent or guardian declines to provide social information for the completion of a risk assessment.
 - 2.5. address victim impact and restitution;
 - 2.6. complete a nonjudicial adjustment if eligible as outlined in Policy 2.4;
 - 2.7. gather necessary information to prepare a court report, if applicable, as outlined in Policy 2.8.
3. The purpose of the preliminary interview when a referral has been petitioned is to:

- 3.1. verify and/or update information contained in the CARE case profile;
- 3.2. review the rights of the minor using the Notice and Acknowledgement to Legal Rights of Minors (post-petition) form;
 - 3.2.1. The probation officer shall reschedule the interview if the minor and/or parents or guardians requests time to consult with an attorney.
- 3.3. gather social information (written consent required);
- 3.4. conduct assessments as outlined in Policy 2.7;
- 3.5. gather necessary information to prepare a court report as outlined in Policy 2.8.

History:

Policy Group 4/23/2018

Addendum 2.2 Notice and Acknowledgment to Legal Rights of Minors (Pre-Petition)

Addendum 3.2 Notice and Acknowledgment to Legal Rights of Minors (Post-Petition)

Feedback Note: Until the matter is reviewed by the prosecutors office and a petition is filed, the minor is not eligible to receive a court appointed attorney.

DRAFT

**UTAH STATE JUVENILE COURT
NOTICE & ACKNOWLEDGMENT TO
LEGAL RIGHTS OF MINORS & PARENTS**

Purpose of the Interview

The purpose of this interview is to determine whether your case can be resolved informally through an agreement between you and the court. The decision is based primarily on the seriousness of the allegations against you, but other factors may be considered. You are not required to attend this interview and you may stop the interview at any time. If the case is not resolved informally either because you don't qualify or because you choose not to participate, the case will be referred to a prosecutor for review.

Right to Counsel (Attorney)

You have the right to be represented by an attorney during this interview. If you want to be represented during this interview, the interview will be postponed to allow you time to consult with a private attorney.

Privilege against Self-Incrimination (Right to Remain Silent)

You have the right to refuse to answer any questions or to make any statements concerning the offense or condition for which you have been referred to the Court.

Notice of Charges

If this matter is petitioned to the Court, you will receive a copy of the petition which will include the allegations or charges.

I have explained these rights to the juvenile. I am satisfied that the juvenile understands these rights and that the juvenile is capable of making decisions about whether to waive any of these rights.

Name: _____ Case number: _____
Probation Officer

I have been told that this interview is voluntary. I understand that the primary purpose of the interview is to determine whether my case qualifies for informal resolution and that if I choose not to participate the court will treat this as a rejection of the offer to informally resolve the case and the case will be referred to the prosecutor. I understand that information disclosed in this interview may also be used to prepare a written pre-dispositional report, with recommendations to the court if a petition is ultimately filed and the pending allegation(s) is (are) found to be true. I understand that no social information shall be gathered during this interview without my written consent. The information received in this interview cannot be used against me to determine if the allegation(s) is (are) true or false.

I understand that I have the right to be represented by an attorney. I waive my right to an attorney for the purpose of this interview only.

Date

Minor

Acknowledged by:

Parent or Guardian

[Close Window](#)

Utah State Courts

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Section 4.2 Supervision Classification

Table of Contents

Policy:

All supervision probation officers shall complete a risk assessment and evaluation of all minors ordered on probation to the Court within thirty (30) days.

Scope:

This policy applies to all supervision probation officers of the Utah State Juvenile Court.

Authority:

Utah Rules of Judicial Administration
Juvenile Court Operations - [Rule 7-304](#)

Procedure:

1. The supervising probation officer of the juvenile court will complete a risk/needs assessment and evaluation of all minors ordered on probation to the Court. The evaluation should include:
 - o 1.1 Risk Factors/Needs Assessment [Policy 2.7 Pre-screen/Full Assessment Tool](#)
 - o 1.2 Delinquent History
 - o 1.3 School Performance
 - o 1.4 Substance Abuse History
 - o 1.5 Family Characteristics
 - o 1.6 History of Services provided to the Minor and Family
2. Upon the order of probation, the minor will be placed on the orientation level of probation supervision. The subsequent supervision levels include high, medium, and low. Placement after the orientation level is contingent on the minor's cooperation, results of the risk/needs assessment, delinquent history, any aggravating/mitigating factors, and where practical, a probation staffing.
3. Each level shall be designed to measure the minor's progress and compliance with the Supervision Correctional Plan.
4. By the time the minor reaches consideration for termination, the minor will have had the opportunity to demonstrate the ability to make positive choices, be law abiding, and accept responsibility for his/her action.
5. Criteria for moving a minor from a higher level to a lower level may include but are not limited to:
 - o 5.1 No further referrals to the Court.
 - o 5.2 No probation violations before the Court.
 - o 5.3 Appropriate behavior at home and/or school.
 - o 5.4 Compliance with the Court Order(s) and conditions of probation.
6. Criteria for moving a minor from a lower level of supervision to a higher level of supervision may include but are not limited to:
 - o 6.1 New referrals petitioned to the Court.
 - o 6.2 Probation violations before the Court.
 - o 6.3 Inappropriate behavior at home and/or school.
 - o 6.4 Noncompliance with the Court Order(s) and conditions of probation

Utilization:

Levels of Supervision:

1. Orientation Level: Duration = maximum of thirty (30) days
 - o 1.1 Very high level of interaction between the minor, probation officer, school, parent(s), counselor(s), and other(s) directly involved with the minor.
 - o 1.2 House Arrest which may include Electronic Surveillance Monitoring.
 - o 1.3 Completion of a risk/needs assessment and social summary.
 - o 1.4 The development of the Supervision and Correctional Plan with the minor, the parent(s) and significant others. (See Rule 7-304- Utah Rules of Judicial Operations)
 - o 1.5 A photograph is obtained for the file in accordance with 78-3a-304 and demographic information is obtained.

- 1.6 Completion of an urinalysis during the first week of probation to establish a baseline.
- 1.7 Referrals made for appropriate services, per court order and/or based upon identified needs of the minor.
- 2. High Level: Duration = approximately sixty (60) days
 - 2.1 Continue high level of interaction between the minor, probation officer, school, parent(s), counselor(s), and other(s) directly involved with the minor
 - 2.2 Continued monitoring of compliance with court order(s) and conditions of probation
 - 2.3 Maintain documentation per local practice
- 3. Medium Level: Duration = approximately sixty (60) days
 - 3.1 Reduced level of interaction between the minor, probation officer, school, parent(s), counselor(s), and other(s) directly involved with the minor
 - 3.2 Continued monitoring of compliance with court order(s) and conditions of probation
 - 3.3 Maintain documentation per local practice
- 4. Low Level: Duration = approximately sixty (60) days
 - 4.1 Minimal interaction between the minor, probation officer, school, parent(s), counselor(s), and other(s) directly involved with the minor
 - 4.2 Minor has paid all or is paying on a regular basis on court obligations
 - 4.3 Successful completion of goals outlined in the Supervision and Correctional Plan.
 - 4.4 Preparation of minor and family for termination from probation.

History: Effective March 1, 2001

[Table of Contents](#)

Page Last Modified: 10/28/2013

[Return to Top](#) | [Close Window](#)

Section 4.2 Intake and Formal Probation

Policy:

The probation department shall supervise minors placed on Intake Probation and Formal Probation by the Court.

Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

Authority:

Utah Rules of Judicial Administration
Juvenile Court Operations Rule 7-304
UCA 78A-6-105
UCA 78A-6-117

Procedure:

1. The probation officer shall recommend either Intake Probation or Formal Probation at a minor's final dispositional hearing when the minor will be supervised by the probation department:
 - 1.1. Intake Probation is defined in statute as a period of court monitoring that does not include field supervision, but the minor is supervised by a probation officer (78A-6-105).
 - 1.1.1. Intake probation shall not extend beyond the three month presumptive time frame unless at least one of the following exist:
 - 1.1.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
 - 1.1.1.2. The minor commits a new misdemeanor or felony offense;
 - 1.1.1.3. Service hours have not been completed; OR
 - 1.1.1.4. There is an outstanding fine.
 - 1.2. Formal Probation is defined in statute as a period of court monitoring that includes field supervision and the minor is supervised by a probation officer (78A-6-105).
 - 1.2.1. Formal probation shall not extend beyond the four to six month presumptive time frame unless at least one of the following exist:
 - 1.2.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
 - 1.2.1.2. The minor commits a new misdemeanor or felony offense; OR
 - 1.2.1.3. There is an outstanding fine.
 - 1.2.1.4. The probation officer shall recommend Formal Probation be terminated and the minor be placed on Intake Probation if the only remaining obligation is service hours.
 - 1.3. The probation officer shall inform the court of the recommended length of time needed to address the specific circumstances when requesting that Intake or Formal Probation continue past the presumptive time frame.
 - 1.4. The presumptive time frames do not apply to minors adjudicated for the offenses outlined under the Serious Youth Offender statute (78A-6-702).

2. The probation officer shall consider the individualized needs of the minor and the following standard field supervision conditions when determining whether or not to recommend Formal Probation.
 - 2.1. The need for the minor to be contacted at their home, school, place of employment, or elsewhere as deemed appropriate.
 - 2.2. The need for the minor to be subject to a search of their person or anything under the minor's ownership, possession, or control.
 - 2.3. The need for the minor to notify the probation department prior to leaving the state of Utah or remaining away from their place of residence overnight.
 - 2.4. The need for additional supervision based upon the risk the minor poses to the community.
3. The probation officer shall meet with the minor and the minor's parents or guardian within five working days of the minor's placement on formal probation and review the conditions of the court order.
4. The probation officer shall complete a case plan on all moderate and high risk youth within 14 days of disposition as outlined in Policy 4.3.
5. The probation officer shall supervise minors placed on either Intake Probation or Formal Probation according to risk, need, responsivity, evidence-based principles and Quality Assurance Plans.

History:

Policy Group 4/23/2018

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Utah State Courts

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Section 4.1 Probation Order

[Table of Contents](#)[View Addendums for this Policy](#)

Policy:

The Probation Department shall monitor the minor's and parent/guardian's compliance of the conditions of probation and orders of the court.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

[UCA 78A-6-117\(2\)](#)[UCA 76-6-107.1](#)[77-18-1](#)

Procedure:

1. When the court orders probation, the order shall be signed by a Judge and will require the signature of the minor, parents/guardian and probation officer.
 - 1.1 If the minor or parents refuse to sign the probation order, the matter should be returned to the court for action as outlined by local practice.
2. The Court may order probation supervision or probation state supervision.
 - 2.1 The order entitled "probation order" shall contain, but is not limited to, expectations regarding school, living arrangements, curfew, harassment of victims and witnesses, possession of contraband, drugs, weapons, restitution, fines, community service hours, counseling/therapy and general obedience to the law.
 - 2.2 The order entitled "probation state supervision" shall contain terms and conditions in addition to those entered in the "probation order" which may include but are not limited to, participation in specialized state supervision programming, electronic monitoring, intensive tracking, individualized supervision and service programs.
3. These orders shall direct the parent(s)/guardian(s) to fully participate in the probation program, report violations by the minor and make them aware that they may be subjected to legal consequences for their failure to comply with any conditions of the order.
4. The probation department shall meet with the minor and parent(s)/guardian within five (5) working days of the minor's placement on probation or state supervision probation.
 - 4.1 The probation department will verbally review each element of the probation order or the state supervision order with the minor and parent(s)/guardian.
 - 4.2 The probation department will acquire signatures from the minor, and parent(s)/guardian and provide them with a copy for review and reference.

History: Effective August 1, 2001

Addendum 4.1.1 Probation Order (English)

- Probation Order (English) - [PDF](#)
-

Addendum 4.1.2 Probation Order (Spanish)

- Probation Order (Spanish) - [PDF](#) | [WordPerfect](#) | [Word](#)

[Table of Contents](#) | [Next](#)

UTAH STATE JUVENILE COURT

PROBATION ORDER

STATE OF UTAH, in the interest of	
Unko-johnson, Chisai DOB 11-23-1993	Case Number: 500005
A minor under 18 years of age	

It is hereby ordered that Chisai Unko-johnson, Jr., hereafter 'probationer', is placed on probation under the supervision of the probation department of this Court with the following conditions:

1. The probationer will obey all federal, state and local laws and ordinances; and will report any arrests, citations or contact with law enforcement to the probation department within two (2) working days.
2. The probationer will obey all lawful and reasonable requests of his or her parent(s), guardian(s), or custodian(s) with whom he or she is living.
3. The probationer will obey the lawful and reasonable requests of the probation department; and shall meet with the probation department as directed.
4. The probationer will comply with curfew as set by the probation department. Any modifications of curfew will be at the discretion of the probation department.
5. The probationer will comply with house arrest as ordered by the Court or home restriction as directed by the probation department.
6. The probation department may contact the probationer at his or her place of residence, school, place of employment, or elsewhere as deemed appropriate.
7. The probationer will not make contact with the person(s) or business(es) he or she victimized without the permission of the probation department.
8. The probationer will not use or possess any intoxicating substance without a doctor's prescription and, will not use any over the counter substance without parental permission and notification to the probation department. The probationer will not knowingly be in the presence of any person(s) selling, using, or possessing such substance. The probationer will submit to random drug testing as requested by the probation department and will be responsible for the cost of any tests that are positive for unauthorized or illegal use. Any costs for confirmation will be assessed to the probationer.

9. The probationer, if defined as a 'restricted person' by UCA 76-10-503 will not possess a dangerous weapon or firearm under any circumstances. The probationer, if not defined as a 'restricted person' will not receive, possess, transport, or have under his or her control any dangerous instrument, weapon, or firearm except with the written consent of the probation department for legitimate and supervised recreational purposes.
10. The probationer will submit to a random search of his or her person or anything under the probationers ownership, possession or control upon the request of the probation department. The probation department may search areas outside of the probationer's bedroom with the consent of the individual who has control of the dwelling or living space.
11. The probationer will submit to being photographed. Pursuant to 53-10-403 U.C.A., the probationer will submit to being fingerprinted and provide a D.N.A. sample, and unless otherwise ordered by the court will be responsible to pay the associated fee for the collection of the sample.
12. The probationer will attend school regularly unless lawfully released, in which case he or she will attend vocational training or seek and maintain gainful employment. The probationer will inform the probation department immediately of any school suspensions, expulsions, or termination of employment.
13. The probationer will participate in any therapeutic treatment and/or program ordered by the Court or directed by the probation officer.
14. The probationer will not associate with any known gang member, juvenile or adult on probation, parole, or in the custody of the Division of Juvenile Justice Services or the Department of Corrections except as approved by the probation department.
15. The probationer will not wear or possess gang/drug attire or gang/drug insignias.
16. The probationer will obtain permission from the probation department before he or she marries; changes residence; enters military service; or makes a major purchase when he or she has outstanding court ordered financial obligations unless authorized by the probation department.
17. The probationer will not have any overnight visits while on probation unless approved in advance by the probation officer. Non-custodial visitation will be allowed if approved in advance by the probation officer and if the non-custodial parent has submitted to the court's jurisdiction by signing the Probation Order.

18. The probationer will obtain permission from the probation department before leaving the state of Utah or remaining away from his or her place of residence overnight or for any extended period. If the probationer leaves the state of Utah without permission or is involved in delinquent activity while away, he or she will voluntarily return upon request of the probation department or by order of the Court.

19. The probation department is authorized to share any information with and about the probationer that may be necessary for the probationer and others to comply with court orders.

20. Special Condition:

21. Special Condition:

22. Special Condition:

23. Special Condition:

It is hereby further ordered that as the parent(s), guardian(s), or custodian(s) of the probationer you will participate fully in the probation program and comply with the following conditions:

1. You will notify the probation department immediately of any violations of the probation order and/or court order.
2. You will comply with all of the probation department's probation-related directives.
3. You will attend meetings with the probation department, school officials, mental health providers or others as directed and ensure transporation is provided.
4. You will authorize any reasonable search of your home to ensure the probationer's compliance with the conditions of probation.
5. You will be financially responsible for the probationer's treatment and / or placement, if applicable.
6. You will not modify any conditions of the probation order.

Dated this _____ day of _____, 20____

Judge

DRAFT 4-18-2018 Changes

Quick words recommended for youth placed on formal probation:

It is hereby ordered that Youth Name is placed on formal probation under the supervision of the probation department of this Court with the following conditions:

1. The minor shall obey the lawful and reasonable requests of the probation department and shall meet with the probation department as directed.
2. The probation department may contact the minor at his or her place of residence, school, place of employment, or elsewhere as deemed appropriate.
3. The minor shall submit to a random search of the minor's person or anything under the minor's ownership, possession, or control upon the request of the probation department.
4. The minor shall notify the probation department before leaving the state of Utah, or remaining away from his or her place of residence overnight.
5. The minor shall notify the probation department of any change of residence or contact information.
6. The parent(s) / guardian(s) shall fully participate in the probation program and report any violations by the minor. Parent(s) / guardian(s) may be subjected to legal consequences for failure to comply with any conditions of the order.

Sec. on 2.12 Serious Youth Offender

Policy:

The probation officer will inform the prosecuting attorney's office, if the minor is within the criteria set forth in the Serious Youth Offender Act.

Scope:

This policy applies to all probation officers of the Utah State Juvenile Court.

Authority:

- [UCA 78A-6-702](#)
- [UCA 78A-6-704](#)
- Utah Rules of Juvenile Procedure - [Rule 21](#), [Rule 22](#), [Rule 23A](#), and [Rule 24](#)

Procedure:

1. The probation department shall ensure the presence and support of a probation officer at all hearings involving minors 16 years or older, who were principal actors in the offense and who have a criminal information filed by the district attorney, county attorney or a attorney general charging them with any of the following felony offenses:
 - 1.1. Aggravated arson;
 - 1.2. Aggravated assault resulting in serious bodily injury to another;
 - 1.3. Aggravated kidnapping;
 - 1.4. Aggravated burglary;
 - 1.5. Aggravated robbery;
 - 1.6. Aggravated sexual assault;
 - 1.7. Discharge of a firearm from a vehicle;
 - 1.8. Attempted aggravated murder;
 - 1.9. Attempted murder; or
 - 1.10. Any other offense involving the use of a dangerous weapon which would be a felony if committed by an adult, and the minor has a previous adjudication or conviction of an offense involving the use of a dangerous weapon which would have been a felony if committed by an adult.
2. The probation officer may attend said hearing until the minor is bound over to the district court, an indictment is returned by the grand jury, or there is an acquittal or dismissal of the charges.
3. After a referral is received, the probation officer shall review the charges and the delinquency history of the referred youth to determine the possible status as a serious youth offender.
 - 3.1. If the minor is within the criteria set for a serious youth offender, the probation officer will inform the district/county attorney.
4. If the minor is held in detention, the probation officer shall attend the initial detention hearing.
 - 4.1. The probation officer will provide a recommendation to the court on the issue of release or continued detention of the minor.
 - 4.2. The probation officer will report the status of the minor if the district/county attorney is not present.
5. The probation officer shall attend the preliminary examination hearing in the juvenile court to learn whether the minor will continue under the jurisdiction of the juvenile court or be bound over to the district court.

- 5.1. If the minor is bound over to the district court, jurisdiction of the juvenile court will terminate.
6. Any felony or misdemeanor committed after the offense over which the district court takes jurisdiction shall be tried against the minor as an adult in the district court having jurisdiction, except as provided below.
7. The juvenile court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the district court.

History: Effective March 1, 2001

Revised and approved November 13, 2015

Section 2.12 Serious Youth Offender

Policy:

~~The probation officer will inform the prosecuting attorney office, if the minor is within the criteria set forth in the Serious Youth Offender Act.~~ **This policy addresses the responsibilities of the assigned probation officer when a case under the Serious Youth Offender Act (SYO) is filed in the Juvenile Court.**

Scope:

This policy applies to all probation ~~officers~~ **staff** of the Utah State Juvenile Court.

Authority:

- UCA 78A-6-702
- UCA 78A-6-704
- Utah Rules of Juvenile Procedure: Rule 21, Rule 22, Rule 23A, and Rule 24

Procedure:

1. **An assigned** ~~The probation~~ **officer** ~~department shall be in attendance ensure the presence and in support of~~ **the Court of a probation officer** ~~at all hearings involving minors 16 years or older~~ **charged who were principal actors in the offense and who have criminal information filed by the district attorney, county attorney or attorney general charging them with any of the following** **Serious Youth Offender (SYO)** ~~felony offenses:~~

- 1.1. Aggravated arson;
- 1.2. Aggravated assault resulting in serious bodily injury to another;
- 1.3. Aggravated kidnapping;
- 1.4. Aggravated burglary;
- 1.5. Aggravated robbery;
- 1.6. Aggravated sexual assault;
- 1.7. Discharge of a firearm ~~from a vehicle~~;
- 1.8. Attempted aggravated murder;
- 1.9. Attempted murder; or
- 1.10. Any other offense involving the use of a dangerous weapon which would be a felony if committed by an adult, and the minor has a previous adjudication or conviction of an offense involving the use of a dangerous weapon which would have been a felony if committed by an adult.

~~2. The probation officer may attend said hearing until the minor is bound over to the district court, an indictment is returned by the grand jury, or there is an acquittal or dismissal of the charges.~~

~~3. After a referral is received, the probation officer shall review the charges and the delinquency history of the referred youth to determine the possible status as a serious youth offender.~~

~~3.1. If the minor is within the criteria set for a serious youth offender, the probation officer will inform the district/county attorney.~~

~~4. If the minor is held in detention, the probation officer shall attend the initial detention hearing.~~

~~4.1. The probation officer will provide a recommendation to the court on the issue of release or continued detention of the minor.~~

~~4.2. The probation officer will report the status of the minor if the district/county attorney is not present.~~

~~5. 2. The probation officer shall attend the preliminary examination hearing in the juvenile court to ascertain whether the minor will continue under the jurisdiction of the juvenile court or be bound over to the district court. **The jurisdiction of the Juvenile Court will terminate if the minor is bound over to the District Court.**~~

~~5.1. If the minor is bound over to the district court, jurisdiction of the juvenile court will terminate.~~

~~6. 3. Any felony or misdemeanor committed after the offense over which the district court takes jurisdiction shall be tried against the minor as an adult in the district court having jurisdiction, except as provided below.~~

~~7. 4. The juvenile court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the district court.~~

History:

Effective March 1, 2001

Revised and approved November 13, 2015

Policy Group Revised March 6, 2018

Section 2.12 Serious Youth Offender

Policy:

This policy addresses the responsibilities of the assigned probation officer when a case under the Serious Youth Offender Act (SYO) is filed in the Juvenile Court.

Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

Authority:

- UCA 78A-6-702
- UCA 78A-6-704
- Utah Rules of Juvenile Procedure: Rule 21, Rule 22, Rule 23A, and Rule 24

Procedure:

1. An assigned probation officer shall be in attendance and in support of the Court at hearings involving minors 16 years or older charged with any of the following Serious Youth Offender (SYO) felony offenses:
 - 1.1. Aggravated arson;
 - 1.2. Aggravated assault resulting in serious bodily injury to another;
 - 1.3. Aggravated kidnapping;
 - 1.4. Aggravated burglary;
 - 1.5. Aggravated robbery;
 - 1.6. Aggravated sexual assault;
 - 1.7. Discharge of a firearm;
 - 1.8. Attempted aggravated murder;
 - 1.9. Attempted murder; or
 - 1.10. Any other offense involving the use of a dangerous weapon which would be a felony if committed by an adult, and the minor has a previous adjudication or conviction of an offense involving the use of a dangerous weapon which would have been a felony if committed by an adult.
2. The probation officer shall attend the preliminary hearing in the Juvenile Court. The jurisdiction of the Juvenile Court will terminate if the minor is bound over to the District Court.
3. Any felony or misdemeanor committed after the offense over which the District Court takes jurisdiction shall be tried against the minor as an adult in the District Court.

4. The Juvenile Court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the District Court.

History:

Effective March 1, 2001

Revised and approved November 13, 2015

Policy Group Revised March 6, 2018

Section 2.13 Certification Investigation Report

Policy:

Upon order of the court, the probation officer shall complete an investigation report of the minor's social history and background for court use in determining whether to certify the minor under [UCA 78A-6-703](#)

Scope:

This policy applies to all probation officers of the Utah State Juvenile Court.

Authority:

[UCA 76-3-203.1](#)

[UCA 76-8-418](#)

[UCA 76-9-802](#)

[UCA 76-10-505.5](#)

[UCA 78A-6-103](#)

[UCA 78A-6-703](#)

[UCA 78A-6-703\(21\)](#)

[UCA 78A-6-705](#)

Utah Rules of Juvenile Procedure – [Rule 21](#), [Rule 22](#), and [Rule 23](#)

Procedure:

1. The investigation by the probation department may include, but shall not be limited to:
 - 1.1. The minor's delinquent history;
 - 1.2. The minor's response to rehabilitative and correctional efforts;
 - 1.3. The minor's educational history and status;
 - 1.4. The minor's social history;
 - 1.5. A psychological evaluation and assessment; and
 - 1.6. Any other matter ordered by the court.
2. The probation department in the preparation of the report will consider the following factors:
 - 2.1. The seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by the juvenile facilities;
 - 2.2. Whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 UCA, if he/she were an adult and the offense was committed:
 - 2.2.1. In concert with two or more persons; or
 - 2.2.2. For the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802 UCA; or
 - 2.2.3. To gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802 UCA.
 - 2.3. Whether the alleged offense was committed in an aggressive, violent, premeditated, or a willful manner;
 - 2.4. Whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, except as provided in Section 76-8-418 UCA;
 - 2.5. The maturity of the minor as determined by considerations of his home, environment, emotional attitude, and pattern of living;

- 2.6. The record and previous history of the minor;
 - 2.7. The likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;
 - 2.8. The desirability of the trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;
 - 2.9. Whether the minor used a firearm in the commission of an offense; and
 - 2.10. Whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5 UCA.
- 3. If requested by the minor, the minor's parent(s), guardian(s), or other interested party, the court shall require the person or agency preparing the report to appear and be subject to both direct and cross examination.
 - 4. The investigation report shall be prepared and provided to the parties or counsel and to the minor's parent(s), guardian(s) or custodian(s) as early as feasible, but at least forty-eight (48) hours prior to the hearing.
 - 5. Written reports and other materials relating to the minor's mental, physical, educational and social history and other relevant information are governed by the Rules of Evidence.
 - 6. If certification is ordered, jurisdiction of the Juvenile Court and the Division of Juvenile Justice Services shall terminate upon the filing of the criminal information in the District Court and any felony or misdemeanor committed after the offense over which the District Court takes jurisdiction shall be tried against the minor as an adult in the District Court having jurisdiction, except as provided below.
 - 7. The juvenile court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the District Court.

History:

Effective March 1, 2001

Revised and approved November 13, 2015

Section 2.13 Certification Investigation Report

Policy:

~~Upon order of the court, the probation officer shall complete an investigation report of the minor's social history and background for court use in determining whether to certify the minor under UCA 78A-6-703.~~ **This policy gives direction to the probation officer when completing an investigative report for certification hearings.**

Scope:

This policy applies to all probation ~~officers~~ **staff** of the Utah State Juvenile Court.

Authority:

UCA 76-3-203.1

UCA 76-8-418

UCA 76-9-802

UCA 76-10-505.5

UCA 78A-6-103

UCA 78A-6-703

~~UCA 78A-6-703(21)~~

UCA 78A-6-705

Utah Rules of Juvenile Procedure – Rule 21, Rule 22, and Rule 23

Procedure:

1. The probation officer shall complete a full investigation of a minor's social history and background and prepare a report of the investigation for use by the Court during a certification hearing.

~~1. 2.~~ The investigation by the probation ~~department~~ officer may include but shall not be limited to:

~~1.1. 2.1~~ The minor's delinquent history;

~~1.2. 2.2~~ The minor's response to rehabilitative and correctional efforts;

~~1.3. 2.3~~ The minor's educational history and status;

~~1.4. 2.4~~ The minor's social history;

~~1.5. 2.5~~ A psychological evaluation **and any other evaluation or** and assessment; and

~~1.6. 2.6~~ Any other matter ordered by the court.

~~2. 3.~~ The probation ~~department~~ **officer shall consider the following** in preparation ~~of~~ **for** the **certification** report ~~will consider the following factors:~~

~~2.1. 3.1~~ The seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by the juvenile facilities;

~~2.2.~~ **3.2** Whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 UCA, if he/she were an adult and the offense was committed:

~~2.2.1.~~ **3.2.1** In concert with two or more persons; or

~~2.2.2.~~ **3.2.2** For the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802 UCA; or

~~2.2.3.~~ **3.2.3** To gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802 UCA.

~~2.3.~~ **3.3** Whether the alleged offense was committed in an aggressive, violent, premeditated, or a willful manner;

~~2.4.~~ **3.4** Whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, except as provided in Section 76-8-418 UCA;

~~2.5.~~ **3.5** The maturity of the minor as determined by considerations of his home, environment, emotional attitude, and pattern of living;

~~2.6.~~ **3.6** The record and previous history of the minor;

~~2.7.~~ **3.7** The likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

~~2.8.~~ **3.8** The desirability of the trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;

~~2.9.~~ **3.9** Whether the minor used a firearm in the commission of an offense; and

~~2.10.~~ **3.10** Whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5 UCA.

~~3. 4. If requested by the minor, the minor's parent(s), guardian(s), or other interested party, the court shall require the person or agency~~ **probation officer** preparing the report to appear and be subject to both direct and cross examination **if requested by the minor, the minor's parent(s), guardian(s), or other party.**

~~4. 5. The~~ **probation officer shall electronically file the** investigation report **and provide a copy** ~~shall be prepared and provided to the parties or counsel and to the minor's parent(s), guardian(s) or custodian(s),~~ **as directed by the court,** as early as feasible, but at least forty-eight (48) hours prior to the **certification** hearing.

~~5. 6.~~ Written reports and other materials relating to the minor's mental, physical, educational and social history and other relevant information are governed by the Rules of Evidence.

6. If certification is ordered, jurisdiction of the Juvenile Court and the Division of Juvenile Justice Services shall terminate upon the filing of the criminal information in the District Court and any felony or misdemeanor committed after the offense over which the District Court takes jurisdiction shall be tried against the minor as an adult in the District Court having jurisdiction. ~~except as provided below.~~

7. The juvenile court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the District Court.

History:

Effective March 1, 2001

Revised and approved November 13, 2015

Updated Policy Group 4/23/2018

Section 2.13 Certification Investigation Report

Policy:

This policy gives direction to the probation officer when completing an investigative report for certification hearings.

Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

Authority:

UCA 76-3-203.1

UCA 76-8-418

UCA 76-9-802

UCA 76-10-505.5

UCA 78A-6-103

UCA 78A-6-703

UCA 78A-6-705

Utah Rules of Juvenile Procedure – Rule 21, Rule 22, and Rule 23

Procedure:

1. The probation officer shall complete a full investigation of a minor's social history and background and prepare a report of the investigation for use by the Court during a certification hearing.
2. The investigation by the probation officer may include but shall not be limited to:
 - 2.1. The minor's delinquent history;
 - 2.2. The minor's response to rehabilitative and correctional efforts;
 - 2.3. The minor's educational history and status;
 - 2.4. The minor's social history;
 - 2.5. A psychological evaluation and any other evaluation or assessment; and
 - 2.6. Any other matter ordered by the court.
3. The probation officer shall consider the following in preparation for the certification report:
 - 3.1. The seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by the juvenile facilities;
 - 3.2. Whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 UCA, if he/she were an adult and the offense was committed:
 - 3.2.1. In concert with two or more persons; or
 - 3.2.2. For the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802 UCA; or

- 3.2.3. To gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802 UCA.
 - 3.3. Whether the alleged offense was committed in an aggressive, violent, premeditated, or a willful manner;
 - 3.4. Whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, except as provided in Section 76-8-418 UCA;
 - 3.5. The maturity of the minor as determined by considerations of his home, environment, emotional attitude, and pattern of living;
 - 3.6. The record and previous history of the minor;
 - 3.7. The likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;
 - 3.8. The desirability of the trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;
 - 3.9. Whether the minor used a firearm in the commission of an offense; and
 - 3.10. Whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5 UCA.
4. The court shall require the probation officer preparing the report to appear and be subject to both direct and cross examination if requested by the minor, the minor's parent(s), guardian(s), or other party.
 5. The probation officer shall electronically file the investigation report and provide a copy to the minor's parent(s), guardian(s) or custodian(s), as directed by the Court, as early as feasible but at least forty-eight (48) hours prior to the certification hearing.
 6. Written reports and other materials relating to the minor's mental, physical, educational and social history and other relevant information are governed by the Rules of Evidence.
 7. If certification is ordered, jurisdiction of the Juvenile Court and the Division of Juvenile Justice Services shall terminate upon the filing of the criminal information in the District Court and any felony or misdemeanor committed after the offense over which the District Court takes jurisdiction shall be tried against the minor as an adult in the District Court.
 8. The Juvenile Court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the District Court.

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DRAFT

Best Practices: Addressing Immigration Issues in Juvenile Court



Table of Contents

Child Welfare Best Practices

Child Welfare Best Practices	Page 1-3
DCFS MOU with Mexican Consulate	Page 4
Child Welfare Checklist for Judges	Page 5

Delinquency Best Practices

Delinquency Best Practices	Page 6-7
Delinquency Checklist for Judges	Page 8

Procedures & Legal Requirements

Service of Process in Foreign Nations	Page 9
Consular Procedures	Page 10
Participation in Court Hearings	Page 11-13
Brief Overview of International Conventions	Page 14-15

Resources & Tools

Avenues for Minors Seeking Legal Status	Page 16
Frequently Asked Questions	Page 17
Unique Challenges	Page 18-20
Helpful Terms	Page 21-22
Resources	Page 23-24

Child Welfare Best Practices

General Considerations

- Children in the United States have a right to protection regardless of their citizenship or immigration status. This right extends to continued safety, permanency, and well-being.
- Every effort should be made to keep a child connected to his or her language, culture, and heritage.
- A foreign national is an individual who is not a citizen or national of the United States. A legal immigrant is a foreign national who has been granted the right to live in the United States. A foreign national living in the United States may have legal or undocumented immigration status.
- The United States is obligated to comply with applicable international and bilateral conventions related to foreign nationals regardless of their immigration status.
- The court does not have a legal obligation to determine or inquire about immigration or foreign national status. However, if the court becomes aware of a party's foreign national or immigration status, it should refer to [Foreign National Status](#) below or [Immigration Status](#) on the next page.

Foreign National Status

- The court should rely on the Division of Child and Family Services (DCFS) or other parties to raise issues of foreign national status.
- When a guardianship or trusteeship is being considered with respect to a foreign national *child*, the foreign national's consulate must be notified. For notification requirements regarding foreign national *parents* in child welfare cases who are arrested or detained, refer to [Consular Procedures on page 10](#).
- In child welfare cases involving custody of a foreign national *child*, DCFS should notify the appropriate consulate as early as possible. The court should inquire whether consular notification procedures were followed.
- If notification has not occurred, the court should direct DCFS to follow consular notification procedures.
- With regard to children who are U.S. citizens *and* nationals of another country (dual citizens), consular notification is not required. *But see*, [DCFS MOU with Mexican Consulate on page 4](#). However, consulate offices may be a helpful resource to locate parents who are out of the country, and to provide kinship options and other services.
- For purposes of consular notification, no inquiry into immigration status should be made. If immigration status is raised by a party, refer to [Immigration Status](#) on the next page.
- A consulate may have an important role in child welfare proceedings. For more information, refer to [Consular Procedures on page 10](#).

Child Welfare Best Practices

Immigration Status

- A child welfare proceeding does not automatically affect the immigration status of the parties, but the immigration status of the parties may affect the child welfare proceeding.
- If the court becomes aware of issues involving a party's immigration status, the court may advise the party or the party's guardian to consult with an immigration attorney.
- The court should ask only the information necessary for managing the case, and should not show bias by presuming the immigration status of a party.
- In order to prevent the introduction of stereotypes, the court should restrict the consideration of immigration status to those instances where the person's status impacts his or her ability to care for the child. In those situations, the court should require the proponent to articulate the reason for presenting evidence on immigration status.
- Immigration status per se does not impair parental rights. *See* David B. Thronson and Judge Frank P. Sullivan, *Family Courts and Immigration Status*, JUV. & FAM. CT. J. 1, 9 (Winter 2012).
- "Presence in the United States without authorized immigration status is not in and of itself evidence of instability." *Id.* at 14.
- The court should consider the totality of the circumstances surrounding a person's abilities, or lack thereof, in providing for a child.
- Parents should not be denied custody solely based on their immigration status. However, if it impacts his or her ability to care for the child, a parent's status is relevant.
- Immigration status may present unique barriers specific to the service and notification process, visitation rights of parents, kinship placement, and the stability of the child's relationship and home environment.



Child Welfare Best Practices

Relative Placement

- Relative placement is preferred as a best practice under both federal and state law.
- Extensive efforts should be made to locate and engage kin, and to transcend country boundaries, as families often maintain strong ties with nuclear and extended family members in their home country. These family members may be an important resource for support and/or placement of children.
- Relatives, as defined by statute, need not be foster care licensed or legal immigrants to be considered as placements for children. However, relatives are required to complete all background checks and undergo a limited home inspection to be considered as a placement.
- Foreign national relatives who are undocumented immigrants cannot be foster care licensed. However, they may be considered for a preliminary placement and/or appointed as a permanent guardian of a child.
- The court should consider the stability of the proposed relative placement, and not solely the placement's status as a legal or undocumented immigrant.
- Issues related to permanency, adoption, and concurrent planning may require additional attention in cases where children are placed with relatives who are undocumented immigrants.
- If the court is considering placing the child with relatives out of the country, the court should take evidence on whether the foreign nation has any restrictions which might prevent such a placement. Additionally, the court should require the parties to address how services and other court orders can be managed in the foreign nation.

Foster Care Licensing

- Prospective foster parents are not required to be United States citizens, but they must be in the United States legally in order to be licensed as foster parents.
- In the case of a married couple, where one spouse is a legal immigrant or a U.S. citizen but the other spouse is not, neither can be licensed as a foster parent. However, the couple may be qualified to be permanent guardians and/or to adopt the child.



DCFS Memorandum of Understanding with Mexican Consulate

Agreement Between DCFS & the Mexican Consulate

The Utah Division of Child and Family Services (DCFS) has entered into a Memorandum of Understanding (MOU) with the Mexican Consulate in Salt Lake City, Utah, relating to Mexican nationals in DCFS custody.

DCFS Obligations

The MOU requires that DCFS provide notice to the Mexican Consulate whenever a Mexican minor is placed in the protective custody, temporary custody, or custody of DCFS. It provides that the Mexican Consulate has the right to communicate with, visit, and assist Mexican minors in DCFS custody. For dual nationals who are U.S. citizens and Mexican nationals, the MOU recognizes the policy of the United States that these children may be treated exclusively as U.S. citizens. However, the MOU indicates that DCFS *may* provide notice to the Mexican Consulate when it has custody of a dual national child, and that DCFS *will* provide such notice when the dual national child has a Mexican national parent in Mexico or no family in the United States.

Mexican Consulate's Obligations

The MOU also provides that the Mexican Consulate may assist DCFS to: locate parents or family members in the United States or Mexico, serve notice of child welfare proceedings upon parents in Mexico, obtain and authenticate relevant documents in Mexico, facilitate communication between the Mexican minor or dual national and his family, provide information relevant to the child's best interest, arrange travel for family members to participate in child welfare proceedings, arrange placement of a Mexican minor with a parent or family member in Mexico, and coordinate assistance and services by the Agency of the National System for Integral Family Development (DIF) in Mexico.



Child Welfare Checklist for Judges

If the court becomes aware that a party is a **FOREIGN NATIONAL**, a judge:

- **Should** ensure that proper service is effected. See [Service of Process to Foreign Nations on page 9](#).
- **Should** ask the Division of Child and Family Services (DCFS) if consular notification procedures were followed.
- **Should** ask DCFS whether consular notification procedures were followed as outlined by the MOU with Mexico (if a child is a Mexican national or dual citizen).
- **Should** direct DCFS to follow consular notification procedures if notification has not occurred.
- **May** make orders to allow an incarcerated or out-of-country party to participate remotely if necessary.

If the court becomes aware of a party's **IMMIGRATION STATUS**, a judge:

- **Should** restrict consideration of immigration status to instances where the party's status impacts their ability to care for the child.
- **Should** require the proponent to articulate the reason for presenting evidence of immigration status.
- **Should** consider the totality of the circumstances and **should not** deny custody based solely on the party's immigration status.
- **May** advise the party or the party's attorney to consult with an immigration attorney about how child welfare proceedings might impact their immigration rights.

In considering **PLACEMENT** of a child, a judge:

- **Should** consider relative placement, even with those who are not foster care licensed, as a preferred placement.
- **Should** be familiar with placement options and limitations for undocumented relatives.
- **Should** inquire into DCFS's efforts to locate and engage kin in and out of the United States.
- **Should** consider the stability of the proposed placement and not solely the immigration status of the parent or relative.
- **Should** seek additional information from kin and parties to satisfy legitimate concerns about stability and criminal convictions.
- For placements outside the United States, a judge:
 - **Should** take evidence on whether the foreign nation has any placement restrictions.
 - **Should** require parties to address how services and court orders are managed in the foreign country.
 - **Should** be specific regarding the type of evaluation, services, and "background" checks expected.

Delinquency Best Practices

General Considerations

- Minors who are accused of committing delinquency offenses are guaranteed certain constitutional rights, including the right to due process, regardless of their immigration status.
- A foreign national is an individual who is not a citizen or national of the United States. A legal immigrant is a foreign national who has been granted the right to live in the United States. A foreign national living in the United States may have legal or undocumented immigration status.
- The United States is obligated to comply with applicable international and bilateral conventions related to foreign nationals regardless of their immigration status.
- Certain delinquency offenses may negatively impact a foreign national minor's immigration status, regardless of whether the minor is a legal or undocumented immigrant.
- A juvenile detained pursuant to a delinquency order who has an ICE hold should be held for a time not to exceed 48 hours, from when he or she would otherwise be released, excluding weekends and holidays, to give the Department of Homeland Security time to assume custody.
- Generally, immigration law does not recognize expungements.
- The court does not have a legal obligation to determine or inquire about immigration or foreign national status. However, if the court becomes aware of a minor's foreign national or immigration status, it should refer to the **Foreign National and Immigration Status** subsection below.

Foreign National and Immigration Status

- The court should rely on the parties to raise foreign national and immigration status issues.
- If the court becomes aware that a minor who has been detained or arrested is a foreign national, the court should inform the minor of his or her right to contact the consulate. For purposes of consular notification, no inquiry into immigration status should be made.
- If the minor is arrested the court should ask if consular notification procedures were followed.
- A consulate may have an important role in delinquency proceedings. For more information, refer to [Consular Procedures on page 10](#).
- The court *should* advise the minor that delinquency adjudications might impact the minor's immigration status. If questions are raised, the court *may* direct the minor or his/her guardian to consult with an immigration attorney about how delinquency proceedings may impact their immigration rights. However, this is defense counsel's role, not the court's responsibility.
- The court should ask only the information necessary for managing the case, and should not show bias by presuming the immigration status of a party.
- In order to prevent the introduction of stereotypes, the court should restrict the consideration of immigration status to those instances where the proponent is able to articulate the reason for presenting evidence on immigration status.

Delinquency Best Practices

Conduct-Based Grounds and Offenses

- Certain conduct, even absent a conviction, can trigger a ground of removability and have harmful immigration consequences. IMMIGRANT LEGAL RESOURCE CENTER, IMMIGRATION BENCHMARK FOR JUVENILE AND FAMILY COURT JUDGES, at 106 (July 2010), http://www.ilrc.org/files/2010_sijs_benchmark.pdf.
- Grounds of inadmissibility found at 8 U.S.C. § 1182 apply to individuals who have not yet been admitted in any legal status to the United States. Grounds of deportability found at 8 U.S.C. § 1227 apply to individuals who have been admitted to the United States, even if they are no longer in lawful status. Most of the conduct-based grounds for removal affect undocumented minors who have not yet been admitted rather than minors with legal immigrant status because only a few conduct-based removal grounds trigger the loss of legal immigration status. *Id.*
- Problematic offenses include: **engaging in prostitution** (inadmissible but not deportable); **being a drug addict or abuser** (inadmissible if person is a current drug addict, and deportable if he has been one at any time since he was admitted to the U.S.); **offenses that demonstrate the person is a sexual predator** (inadmissible under mental pathology (repeated offenses) or under bad conduct (single offense adjudication)); **making a false claim to U.S. citizenship; using false documents** (inadmissible or deportable); **reason to believe that the person is trafficking drugs** (inadmissible, but not deportable); and **violating protective orders** (deportable if criminal or civil court finds a violation). *Id.*
- Medical conditions such as testing positive for HIV, or mental conditions such as posing a risk to self and others are also grounds for inadmissibility. *Id.*
- All offenses, even if they do not trigger inadmissibility or deportability, are considered negative factors in discretionary decisions regarding a minor's immigration status. *Id.* Also, some offenses will be viewed with particular concern, including: **offenses involving violence, domestic violence, firearms, gang-related activity, and sex offenses.**



Delinquency Checklist for Judges

If the court becomes aware of a minor's **IMMIGRATION STATUS** or that a minor is a **FOREIGN NATIONAL**, a judge:

- **Should** inform the minor of his or her right to contact their consulate.
- **Should** ask the State if consular notification procedures were followed (if the minor is arrested or detained).
- **Should** direct the State to follow consular notification procedures if notification has not occurred (if the minor is arrested or detained).
- **Should** be familiar with how certain delinquency adjudications or admissions may affect the minor's immigration status.
- **Should** inform the minor that a delinquency adjudication may impact their immigration status.
- **May** advise the minor or the minor's guardian to consult with an immigration attorney about how delinquency proceedings may impact their immigration rights.
- **Should** order that a juvenile detained pursuant to a delinquency order who has an ICE hold should be transferred to the Department of Homeland Security within 48 hours, not including weekends, from when he or she would otherwise be released.



Service of Process in Foreign Nations

International Service under the Utah Rules of Civil Procedure

- In the absence of an international treaty, [Rule 4 of the Utah Rules of Civil Procedure](#) requires that service should occur in the manner provided by law for service in that country: 1) by letter rogatory, unless prohibited by that country's laws; 2) by delivery to the individual personally or by certified mail (or similar international mail service); 3) by return receipt requested, mailed by the clerk of court; or, 4) by any other means not prohibited by international law as directed by the court.
- In some cases, local service by publication may be sufficient under [Utah Code section 78A-6-109\(13\)](#). When service in a foreign nation is required, service by publication may be possible; however, it may not be a valid method of service under the laws of a particular foreign nation. If service to a foreign nation becomes necessary and service by publication is appropriate under [Rule 4 of the Utah Rules of Civil Procedure](#), the service rules of that nation should be researched and followed. Because service by publication may not be possible in all foreign nations, it may be best to first seek a letter rogatory to effect service. For more information refer to the [U.S. Department of State's website](#).

Hague Convention

- Under [the Hague Convention](#), service may be effected by a request directed to the foreign nation's Central Authority. In this case, a translated pleading is usually required. The Central Authority will serve the documents, and the Central Authority or its agent will provide a return of service.
- Alternatively, service may be effected by mail unless prohibited by the foreign nation. This method requires that a certified return receipt be requested or a similar process be completed. Some states interpret this provision as applying only to documents requiring service after the initial complaint or petition has been served.
- Finally, service may be effected by a method allowed by the foreign nation for service of another nation's pleadings. This option applies only if the foreign nation has adopted a specific law for service of foreign documents.

Letters Rogatory

- A letter rogatory is a request from one court to another for service of process. Under this method of service, pleadings must be translated. In this case, the foreign court serves the pleadings using methods recognized by the foreign state. Effecting service by a letter rogatory is often the most time-consuming method for service in a foreign nation. For more information on how to complete a letter rogatory refer to the [U.S. Department of State's website](#).

Consular Procedures

Obligations Under the Convention

- The United States has undertaken by treaty the obligation to notify foreign consulates and permit them access to foreign nationals who are arrested or detained or for whom a guardianship proceeding is pending.
- These obligations arise under the Vienna Convention on Consular Relations (VCCR) (particularly Articles 5, 36, and 37) and various bilateral conventions.
- The U.S.'s consular notification obligations apply to many countries. The United Nations has a [list of the countries that ratified the Vienna Convention](#) on its website.
- The fulfillment of these obligations falls to federal, state, and local law enforcement; judicial officials; and other government officials. To assist federal, state, and local officials in this duty, the U.S. Department of State has published an instructional manual ([CNA Manual](#)).

Summary of Consular Notification Requirements

- When applicable, a foreign national who is arrested or detained may, upon request, have his consulate notified of his arrest or detention, and may have communications to his consulate forwarded, without delay. In addition, foreign nationals must be advised of this right without delay.
- In cases where the foreign national is from a mandatory notification country, the consulate must be notified of the arrest or detention even if the foreign national does not request or desire notification.
- When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or an incompetent adult, the foreign national's consulate must be notified.

Judicial Responsibilities

- As requested by the U.S. Department of State, courts that preside over arraignments and initial court appearances of foreign nationals should inquire at that time whether consular notification procedures have been followed as required by applicable conventions or bilateral agreements requiring mandatory notification.
- If the court becomes aware that a party before the court is a foreign national, the court should ask whether consular notification is required, and, if yes, whether the notification was completed per the requirements of the applicable convention. Once the consulate has been properly notified, the court may proceed regardless of whether the consulate responds and chooses to participate.

Consulate's Role

- The consulate is entitled to communicate with, and have access to its nationals in detention, and to provide consular assistance to them, including arranging for legal representation.
- Consular officers are not parties to child welfare or delinquency matters and are not permitted to practice law in Utah. They may, however, participate in litigation as "friends of the court," and they may assist a foreign national and his or her legal counsel in preparation of the foreign national's defense, if the foreign national agrees.

Participation in Court Hearings

General Considerations

- Although a party has a right to notice, an incarcerated or out-of-state party does not have a right to be transported to the hearing.
- It is not the court's responsibility to transport an incarcerated or out-of-state party. Assuming that proper service and notice has been effected, the onus is on the party to make arrangements to be present for the hearing.
- The incarcerated or out-of-state party should propose a method for participation in the court proceedings. The court should determine whether that method is appropriate. If a party cannot appear in person, the court may consider allowing the party to appear remotely. In determining the medium used, the court should weigh the ability of the party to otherwise appear in person against the challenges of assessing the credibility of the witness, maintaining a record, and allowing cross examination.
- If the incarcerated or out-of-state party is unrepresented, the court may order the petitioner to assist with executing the necessary writ or order for transportation or remote appearance.
- If a party is allowed to appear remotely, the court may consider changing the order of examination and cross examination to ensure the party's testimony is received, in the event that the party becomes unavailable. Additionally, the party's testimony might be obtained by deposition.
- The court should also consider making a record that clearly identifies the out-of-courtroom participant as the person they purport to be. This may include an official, such as a notary, corrections, or consulate official, attesting to the person's identity by signing a particular document, obtaining or providing appropriate identification, and faxing, scanning, or mailing these documents to the court.
- All documents should be served on the parties according to the Utah Rules of Juvenile Procedure, the Utah Rules of Civil Procedure and, where applicable, foreign service requirements. For more information, refer to [Service of Process in Foreign Nations on page 9](#).

Parties in Federal or Out-of-State Custody

- Petitioner should determine where the party is located, and inform the court as soon as possible.
- The court should issue a summons in accordance with [Utah Code section 78A-6-109](#).
- If remote appearance is allowed by the court, Petitioner or defense counsel should contact the prison to see if the incarcerated party can appear remotely. If the prison has a phone, Skype, or similar resources, Petitioner or defense counsel should determine what arrangements must be made to set up an appearance by the incarcerated party using one of these resources. If the prison does not have this capability, Petitioner or defense counsel should inquire as to whether there are any special requirements or forms for transporting an inmate in addition to the writ.
- Petitioner or defense counsel should ask how much time the prison needs from the date it receives the writ to ensure remote appearance or transport of the inmate.
- Petitioner or defense counsel should then inform the court of the time the prison needs to ensure remote appearance or to transport the inmate.

Participation in Court Hearings

Parties in Federal or Out-of-State Custody Continued

- Petitioner or defense counsel should obtain a Writ of Habeus Corpus ad Prosequendum from the court. Because the state is responsible for transportation to Utah state court proceedings, transportation will need to be ordered and coordinated with a state transporting entity (e.g. the county sheriff).
- The court should specifically order who will bear the costs of the transportation. The court has authority to order the state or county to bear these costs. Otherwise, the court may order one of the parties to reimburse the transporting entity for these costs.
- The court should set the hearing with enough time for the party to appear by phone, Viack, Skype, or by similar means, if the court chooses to allow remote appearance, or for the prison to transport the party, and should specify which party will execute the writ.
- The party ordered to execute the writ should serve the writ on the federal prison in accordance with the Utah Rules of Juvenile Procedure and the Utah Rules of Civil Procedure. Typically, a state entity, such as the Attorney General, should seek and serve the writ. In the case of a private petition, Petitioner and the court can work with local law enforcement to ensure execution of the writ.
- The party ordered to execute the writ should complete any other forms or documents required by the prison for transportation of an inmate.
- The party ordered to execute the writ should follow up with a phone call to the federal prison at least one week before the hearing to ensure that the inmate has not been moved and that the transport or remote appearance will take place.
- An example writ and more information can be found at:
<http://www.kledispatches.ky.gov/transportfedprisoners0808.pdf>.

Parties in State Custody

- Petitioner should determine where the party is located, and inform the court as soon as possible.
- The court should issue a summons in accordance with [Utah Code section 78A-6-109](#).
- Petitioner or defense counsel should contact the prison/jail to inquire as to whether there are any special requirements or forms for transporting an inmate in addition to the order.
- Petitioner or defense counsel should ask how much time the prison needs from the date it receives the order to ensure transport of the incarcerated party.
- Petitioner or defense counsel should then inform the court of the time the prison/jail needs to ensure the incarcerated party's transport.

Participation in Court Hearings

Parties in State Custody Continued

- Petitioner or defense counsel should obtain a transportation order from the court. Because the state is responsible for transportation to Utah state court proceedings, transportation will need to be ordered and coordinated with a state transporting entity (e.g. the county sheriff).
- The court should specifically order who will bear the costs of the transportation. The court has authority to order the state or county to bear these costs. Otherwise, the court may order one of the parties to reimburse the transporting entity for these costs.
- The court should set the hearing with enough time for the prison/jail to transport the party and should specify which party will execute the order.
- The party ordered to execute the order should serve the order on the prison/jail in accordance with the Utah Rules of Juvenile Procedure and the Utah Rules of Civil Procedure. Typically, a state entity, such as the Attorney General, should seek and serve the order. In the case of a private petition, Petitioner and the court can work with local law enforcement to ensure execution of the order.
- The party ordered to execute the order should complete any other forms or documents required by the prison for transportation of an inmate.
- The party ordered to execute the writ should follow up with a phone call to the prison/jail at least one week before the hearing to ensure that the inmate has not been moved and that the transport will take place.

Out-of-Country Parties

- The court should determine in which country the party is located. If the court is unable to determine the location of the party, where practicable, the court should order the other parties (DCFS through the Attorney General, other Petitioner, Respondent, and the child through the Guardian ad Litem) to assist with locating the out-of-country party.
- If a party cannot appear in person, the court may allow the party to appear remotely.
- The court should set any hearings with enough time to allow the other parties to contact the out-of-country party and make arrangements for his appearance in person, by phone, Viack, Skype, or similar means.
- If the country has a consulate, the other parties should contact the consulate to see if it can provide help in contacting the out-of-country party and assisting him or her to appear before the court in person, by phone, Viack, Skype, or similar means.
- The court should issue a summons in accordance with [Utah Code section 78A-6-109](#). For information on service in foreign nations, refer to [Service of Process in Foreign Nations on page 9](#).

Brief Overview of International Conventions

Vienna Convention on Consular Relations

- [The Vienna Convention on Consular Relations](#) provides for communication between consulates and nationals of their state. It applies only in cases involving nationals of other signatory states.
- If the foreign national requests, or if the foreign national is from a mandatory notification country, the authorities of the receiving state shall notify the foreign national's consulate when he has been arrested, committed to prison, or detained in any other manner. Authorities of the receiving state shall also notify the foreign nation's consulate whenever a guardianship or trusteeship is being considered with respect to the foreign national. Those authorities shall forward any correspondence from the foreign national to the consulate without delay. Additionally, they shall allow the consulate to have access to the foreign national while in prison, custody, or detention.
- While the court has no direct obligations under the Vienna Convention, the court can ensure that the authorities of the receiving state are complying with the convention. If the court becomes aware of a party's foreign national status, and if the party qualifies for the protections of the convention, the court may order the State to inform the appropriate consulate. Additionally, the court may make orders ensuring that the appropriate consulate has access to a juvenile who is detained.

Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

- [The Hague Convention on the Civil Aspects of International Child Abduction](#) provides an expeditious method for return of an abducted child under age 16 from one nation to another.
- Under the convention, a person can apply to the judicial or administrative authorities of a contracting state to have a wrongfully removed child returned to their home country. The court need not order return of the child if the person opposing return can show that the petitioner was not exercising custody rights at the time the child was removed or there is a grave risk that returning the child would subject him to physical or psychological harm. The court may also refuse to order return of the child if the child is of sufficient maturity and objects to the return. Where the court has reason to believe that the child has been taken to another state, it may stay or dismiss the proceedings. The court may ask the applicant to obtain an order from the child's home state indicating that the removal was wrongful.
- The convention also requires that nationals of other contracting states be entitled to legal aid in matters involving the convention in this state as if they were nationals of and habitually resident in this state. The authorities of each state are responsible for their own costs, except that they may require the payment of expenses related to returning the child. The court may direct the person who wrongfully removed the child to pay those expenses.
- The court has an obligation to act expeditiously in cases involving the return of children. If the court has not reached a decision within 6 weeks of commencement of the proceeding, the applicant or state authority may ask the court for a statement of the reasons for the delay. Where the proceedings have been commenced more than one year after removal of the child, the court shall order return of the child, unless it is determined that the child is settled in his new environment. The court shall not make a decision on custody on the merits until it determines that the child is not to be returned under the convention.

Brief Overview of International Conventions

Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption

- [The Hague Convention on Protection of Children](#) works to provide safeguards for intercountry adoption to prevent the sale or traffic in children.
- As a territory of the United States, Utah is a contracting state. The convention applies where a child habitually resident in one state, has been, is being, or will be moved to another contracting state either after her adoption, or for the purposes of adoption. The convention covers only adoptions which create a permanent parent-child relationship. An adoption in the child's state of origin which does not have the effect of terminating the child's parent's parental rights may be converted into an adoption having such effect in this state, if this state's laws permit, and the appropriate consents have been given.
- The court shall allow such an adoption only if it has determined that the child is adoptable, that intercountry adoption is in the child's best interests; that the persons giving consent to the adoption have received legal counsel regarding their consent and have freely consented; and that the child has received legal counsel regarding her consent, the court has taken into account the child's wishes, and the child's consent (where required) has been given freely and was not induced by payment or compensation. Additionally, the adoption may take place only if the prospective parents are eligible and suited to adopt, they have received legal counsel as necessary, and the child will be authorized to permanently reside in this country.
- Unless manifestly contrary to its public policy, the court of a contracting state shall recognize an adoption certified by the competent authority of another contracting state. Recognition of the adoption includes recognizing the legal parent-child relationship between the child and her adoptive parents, the parental responsibility of the adoptive parents, and the termination of the legal parent-child relationship of the child and her mother and father. The court shall make sure that information it has about the child's origin, particularly the identity of her parents, and her medical history, is preserved and that the child or her representative has access to it. The court shall act expeditiously in adoption proceedings under the convention.

Bilateral Consular Conventions

- The United States currently has bilateral consular conventions with 58 different countries. When a judge has a case involving a foreign national, the judge should refer to their law clerk or legal counsel to learn if the United States has a bilateral convention with the foreign national's country, whether the convention is applicable to the case, and if so, the court's obligations under the convention. For more information, refer to the [list provided by the U.S. Department of State](#).

Inapplicable Conventions (Not Ratified by the United States)

- Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children
- United Nations Convention on the Rights of the Child

Avenues for Minors Seeking Legal Immigrant Status

Special Immigrant Juvenile Status (SIJS)

Special Immigrant Juvenile Status (SIJS) is available to some children in child welfare and delinquency proceedings depending on findings made by the court. For a juvenile to be eligible for SIJS status, the juvenile court must make specific findings. See [SIJS Form Order](#).

Violence Against Women Act (VAWA)

Violence Against Women Act (VAWA) is available to some victims of domestic violence.

“T” Visa

A “T” Visa is available to some victims of human trafficking.

“U” Visa

A “U” Visa is available to some crime victims who assist in the investigation and prosecution of the crime.

Asylum/Withholding of Removal

Asylum/Withholding of Removal is available to some children who fear persecution on account of their race, nationality, religion, political opinion, or membership in a particular social group.

Adoption

A child adopted after the age of 16 is not recognized as a child for immigration purposes, with one exception; a person under age 18 adopted with a sibling under age 16 qualifies as a child.

Family Visa

A child of a U.S. citizen or lawful permanent resident (LPR) parent can benefit from a family visa for the child. However, a U.S. citizen child cannot be the source of a family visa for an alien parent.

For more information refer to [Helpful Terms on page 21](#).



Frequently Asked Questions

Why is knowledge of immigration issues important in child welfare cases?

The foreign national or immigration status of parents and children may impact court proceedings, placement options, service and notification options, and court orders for family reunification. Additionally, a child welfare case may enable the child to apply for Special Immigrant Juvenile Status (SIJS). It is also important to remember that immigration law and family law have fundamentally different notions of “child” and “family.” Further, unlike family law, immigration law does not place significant importance on the “best interest of the child” in immigration removal proceedings.

Why is knowledge of immigration issues important in delinquency cases?

A delinquency adjudication is not a criminal conviction for immigration purposes, but admissions made in delinquency proceedings may impact a child’s ability to obtain a grant of SIJS, naturalization, or other discretionary immigration benefits. Additionally, certain offenses may influence whether the child is “inadmissible” or “deportable,” and admissions (without convictions) of certain offenses may negatively impact immigration benefits. Knowledge of immigration issues is also important in dually adjudicated cases since the dependency aspect of the case may enable the child to apply for the SIJS.

What is the difference between Foreign National Status and Legal Immigrant Status?

Immigration status should be distinguished from foreign national status. A foreign national is an individual who is not a citizen or national of the United States. A legal immigrant is a foreign national who has been granted the right to live in the United States. A foreign national living in the United States may be a legal or undocumented immigrant. The United States is obligated to comply with applicable international and bilateral conventions related to foreign nationals regardless of their immigration status. The court’s knowledge of a person’s foreign national status should not implicate the person’s immigration status.

How are child welfare timelines impacted by cases involving immigration issues?

Statutory requirements for child welfare timelines apply in all child welfare cases, regardless of the immigration or foreign national status of one or more of the parties. Best practices encourage the timely resolution of these cases when possible. However, in a case involving immigration issues, the court’s ability to meet the child welfare timelines may be impacted by a number of things including difficulty locating one of the parties, and service of process in a foreign country. Therefore, although the court should make efforts to follow the child welfare timelines, in a case with immigration issues, the court may find itself out of compliance.

Unique Challenges

Eligibility for Benefits or Services

Judges may need to take into account limits on eligibility for benefits or services for both legal and undocumented immigrants in custody determinations, dependency dispositions, and dispositions in juvenile delinquency cases. Major problem areas include the availability of services in different languages and services geared to different cultures; the ability to meet probation conditions, such as the ability to find a job to pay restitution; and services that are not available to undocumented immigrants such as medical services, mental health services, and financial assistance. For more information about organizations that provide services to immigrants refer to [Resources on page 23](#).

Difficulty Assessing Home Conditions in Foreign Countries

Judges may need to rely on assistance from the consulate and international social services in locating family members and completing home studies in a foreign country. The court should be specific regarding the type of evaluation and services that it needs or expects. Terms such as “random” testing, and mental health or drug and alcohol evaluation may mean something very different in a foreign country than what the court anticipates. Judges should also be specific regarding their expectations for “background” checks. Judges should make their requests early and be prepared for these services and evaluations to take additional time. The best results will be obtained if expectations are clearly explained and understood, and judges allow plenty of time to complete these tasks.

Placement Concerns

Because of limitations that DCFS has regarding licensing for foster care or recommending adoption with undocumented persons, the court may be asked to grant custody/guardianship to undocumented persons in lieu of continued custody with DCFS. Judges should seek additional information from the kin and parties to satisfy legitimate concerns as to why continued DCFS custody, licensure, and/or adoption are not viable options in the best interest of the child(ren). Background checks for undocumented persons are often difficult because they may not be able to be tracked by regular means. This process becomes more complicated if persons use more than one name (for example, in some Hispanic cultures it is common to use both maternal and paternal surnames). The court may need to ask for additional information to establish stability and a lack of criminal record where the usual means of checking those concerns are not available.

Avoiding Assumptions, Stereotypes, and Biases

It is important to avoid bias in considering placement of children with kin outside the United States. Judges should be aware of the unfounded assumption that it is always best to reside in the United States or that immigrants' lives are inherently unstable. For more information on avoiding placement bias, see David B. Thronson and Judge Frank P. Sullivan, *Family Courts and Immigration Status*, JUV. & FAM. CT. J. 1 (Winter 2012).

Unique Challenges

Foreign Languages and Use of Interpreters

Use of foreign languages in the courtroom can be challenging and exacerbated by having a non-English speaking party out of the courtroom. Effective use of interpreters is critical to assure legitimacy and fairness during court hearings.

Best Practices for the Use of Interpreters

- As in all cases involving interpreters, judges should ensure that the interpreter is either certified, or has been properly sworn. See [UTAH R. JUD. ADMIN. 3-306](#).
- Judges should consider whether *simultaneous* or *consecutive* translation is needed. Consecutive translation is more cumbersome, but provides a better record and an opportunity for assistance by other interpreters. Consecutive translation should be considered for termination of parental rights trials or complex hearings where interpreters may become fatigued.
- For trials and complex hearings, judges should consider a conference with the interpreters and determine their needs to most effectively assist the court.
- Consideration should also be given to the number of interpreters needed in the courtroom, as more than one party may need an interpreter. Audio devices are available to allow simultaneous interpretation to two or more persons in the courtroom.
- For hearings scheduled two hours or longer, two interpreters should be requested. The interpreters can take turns interpreting every twenty minutes, and provide a back-up if unfamiliar words arise or unintended inaccuracies occur.
- Judges should also consider whether *sight* translation is needed, where an interpreter may be called upon to read a document in a source language and render a verbal interpretation in another language. Judges should provide the interpreter with sufficient time to read through the document before asking for translation.
- Interpretation over the telephone is particularly difficult. The interpreter misses visual cues, such as a pause to allow the interpreter to render the interpretation. Video conferencing is more effective, although clear audio during video conferencing may become an additional concern. This concern may be alleviated by having an interpreter present at the location with the person speaking the foreign language.

For more information, see [CODE OF PROFESSIONAL RESPONSIBILITY FOR COURT INTERPRETERS](#).

Unique Challenges

Mixed Status Families

In cases involving foreign national or immigrant families, it is common for children and parents in a family to have different immigration or citizenship statuses. It is important to note that immigration courts cannot prevent a deported parent from taking a child with him or her, even if the child is a United States citizen. Federal law provides for cancellation of a deportation order if the removal would result in “exceptional and extremely unusual hardship to the alien’s spouse, parent, or a child who is a United States citizen or lawful permanent resident.” 8 U.S.C. § 1229b(b)(1)(D). However, the hardship must exceed the normal hardships that are inherent in moving a child to another country.

Unlike the immigration court, a juvenile court can make custody or placement orders in child welfare proceedings regarding the ability of parents to take children to another country.

Refugee Foster Care (Unaccompanied Refugee Minors Program)

In the course of serving children with immigration issues, the court may come across children in “Refugee Foster Care” (RFC). This type of foster care is a program of the federal State Department, and neither Utah nor DCFS is involved with it in any way. The State Department identifies refugee children overseas who are eligible for resettlement in the United States, but do not have a parent or a relative available and committed to providing for their long term care. Upon arrival in the United States, these refugee children are placed into the Unaccompanied Refugee Minors (URM) program and receive refugee foster care services and benefits. Children in RFC only come to the attention of DCFS, JJS, or the Juvenile Court when there are independent circumstances of abuse, neglect, dependency, or delinquency.

In Utah, the URM program is coordinated by Catholic Community Services (CCS) and is referred to as their RFC Program. The RFC Program provides temporary guardians and housing for unaccompanied refugee children until family members are located or until the children are eighteen years of age. With the assistance of CCS, families in our community provide care until the children can be reunited with their families or become adult members of the community.

Child Protective Orders

In child protective order proceedings, the Court may advise the party or the party’s attorney to consult with an immigration attorney about how these proceedings might impact their immigration rights.

Helpful Terms

Alien – any person who is not a citizen or national of the United States.

Asylee – see *Refugee*.

Crime Involving Moral Turpitude – a crime that contains an element of fraud or other behavior considered morally offensive. The courts have interpreted this category to include crimes that involve evil or malicious intent or inherent depravity; intent or reckless behavior to commit great bodily harm; and intent to defraud, including theft.

Deportable – vulnerable to losing current immigration status, such as permanent residency.

“Good Moral Character” – a required condition for eligibility to become a naturalized citizen, lawful permanent resident (LPR) under VAWA and T Visa, and most other legal immigrant statuses. Good moral character is determined by a sum of a person’s actions. Federal statute provides that a person is not of good moral character if he or she has engaged in any of the following: habitual drinking; prostitution; receiving primary income from illegal gambling; conviction of two or more gambling offenses; conviction of a crime of moral turpitude; multiple convictions with aggregate sentence of more than five years; drug trafficking; imprisonment for 180 days or more; conviction of aggravated felony; smuggling aliens into the U.S.; polygamy; a crime related to a controlled substance; participation in Nazi prosecution or religious prosecutions; and illegal voting or falsely claiming U.S. citizenship.

Immigration and Customs Enforcement (ICE) – a division of the Department of Homeland Security (DHS) responsible for identifying and removing noncitizens in violation of immigration law. It is the former Immigration and Naturalization Service (INS).

Inadmissible – ineligible to obtain legal immigrant status unless a waiver of inadmissibility is available.

Lawful Permanent Resident (LPR) – an alien who is allowed to reside and work permanently in the United States.

Non-Immigrant Alien – an alien who is in the United States legally on a temporary basis. The non-immigrant visa has an expiration date, and overstaying the visa without permission makes the alien an undocumented alien.

Refugee or Asylee – an alien qualifies for refugee status based on a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion if returned to the home country. Once admitted, the alien is allowed to stay in the U.S. as long as returning to the alien’s home country would put him or her at safety risk (unless he or she meets grounds for loss of status). Refugee status is adjudicated while the individual is outside the U.S., while asylee status is adjudicated while the individual is in the U.S.

Special Immigrant Juvenile Status (SIJS) – an immigration status available for an alien child for whom a juvenile court has made the following findings: (1) the child has been declared dependent on juvenile court and placed in the custody of a state agency or an individual appointed by the juvenile court; (2) the child’s reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and (3) that it would not be in the child’s best interest to be returned to the child’s or parent’s previous country of nationality or origin.

T Visa – a visa available to victims of severe human trafficking who assist in the investigation or prosecution of traffickers. The maximum length of stay under a T visa is four years unless extended. The holder of a T visa is eligible to apply for LPR status if he or she is of good moral character and has been in the U.S. continuously for three years.

Helpful Terms

United States Citizenship and Immigration Services (USCIS) – a division of the Department of Homeland Security (DHS). It performs many administrative functions formerly carried out by the former United States Immigration and Naturalization Service (INS). The stated priorities of the USCIS are to promote national security, to eliminate immigration case backlogs, and to improve customer services. Please see www.uscis.gov/portal/site/uscis for additional information.

U Visa – available to aliens who: (1) have suffered severe physical or mental abuse as victims of criminal activity; (2) have been, are being, or are likely to help law enforcement in the investigation of the criminal activity causing the abuse. The maximum length of stay under a U Visa is four years unless extended. The holder of a U Visa is eligible to apply for LPR status if he or she is of good moral character and has been continuously in the U.S. for three years.

Violence Against Women Act (VAWA) – a federal law that allows an alien who has been battered or subjected to extreme cruelty by a United States citizen or LPR (or who is the parent of a child who has suffered the same), to petition for LPR status without the cooperation of the abusing spouse under the self-petitioning provisions of the VAWA.



Organizations

ACLU of Utah

355 North 300 West, Salt Lake City, Utah 84103

(801) 521-9862

<http://www.acluutah.org/immigration.shtml>

Areas of Assistance: education and information regarding immigrants' rights, investigation of reports of immigrant abuse.

Asian Association of Utah – Refugee and Immigrant Center

155 South 300 West, Salt Lake City, Utah 84101

(801) 467-6060

<http://www.aau-slc.org/>

Areas of Assistance: prevention and clinical services, employment and social services, ESL and life skills, interpreting and translation.

Catholic Community Services of Utah – Immigration and Refugee Resettlement

745 East 300 South, Salt Lake City, Utah 84102

(801) 977-9119

<https://www.ccsutah.org>

Free consultations every Wednesday.

Areas of Assistance: adjustment of status, consular processing, employment authorization, family-based petitions, NACARA, naturalization/citizenship, removal hearings, Special Immigrant Juvenile Status, T visas, Temporary Protected Status (TPS), U visas, Violence Against Women Act (VAWA) petitions.

Holy Cross Ministries of Utah – Immigration Services

860 East 4500 South, Suite 204, Salt Lake City, Utah 84107

(801) 261-3440, ext. 48

<http://holycrossministries.org/>

Appointment information is listed on its website.

Areas of Assistance: consular processing, employment authorization, family-based petitions, naturalization/citizenship, removal hearings, U visas, Violence Against Women Act (VAWA) petitions.

International Rescue Committee (Salt Lake City)

231 East 400 South, Suite 50, Salt Lake City, Utah 84111

(801) 328-1091

<http://www.rescue.org/us-program/us-salt-lake-city-ut>

Areas of Assistance: adjustment of status, consular processing, family-based petitions, naturalization/citizenship.

Resources

Legal Clinics

Utah Legal Services

205 North 400 West, Salt Lake City, Utah 84103
(801) 328-8891

<http://www.utahlegalservices.org>

Areas of Assistance: farm worker program, immigration assistance for victims of domestic violence.

Immigration Law Free Clinic

Horizonte School Cafeteria
1234 South Main Street, Salt Lake City, Utah 84101
1st and 3rd Tuesday of each month
5:00 p.m. – 7:00 p.m.

Sponsored by S.J. Quinney College of Law

Areas of Law: immigration, naturalization/citizenship, adjustment of status, deportation, visas.

Consulates

For information regarding a specific consulate, please contact the Juvenile Court Law Clerk.

Other Resources

U.S. Citizenship and Immigration Services (USCIS)

660 South 200 East, Suite 400, Salt Lake City, UT 84111

<http://www.uscis.gov/portal/site/uscis>

Resources: forms, information about immigration law.

Benchbooks

Juvenile and Family Immigration Bench Guide

Center for Public Policy and State Justice Institute

http://www.sji.gov/PDF/Juvenile_Bench_Guide_20100713.pdf

Immigration Benchbook for Juvenile and Family Court Judges

Immigrant Legal Resource Center

http://www.ilrc.org/files/2010_sijs_benchbook.pdf



Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

7

A GUIDE TO JUVENILE DETENTION REFORM

Noncitizen Youth in the Juvenile Justice System

This report was written by Shannan Wilber, while executive director at Legal Services for Children, and Angie Junck, supervising attorney at the Immigrant Legal Resources Center.

The Annie E. Casey Foundation is a private philanthropy that creates a brighter future for the nation's children by developing solutions to strengthen families, build paths to economic opportunity and transform struggling communities into safer and healthier places to live, work and grow. For more information, visit www.aecf.org.

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contents

2	INTRODUCTION	32	RESOURCES
4	CHAPTER I Profile of Noncitizen Youth in the United States	34	ACKNOWLEDGMENTS
7	CHAPTER II For What Purposes Is a Youth's Immigration Status Relevant in the Juvenile Justice System?	35	ENDNOTES
21	CHAPTER III Are Juvenile Justice Personnel Required to Assist with the Enforcement of Federal Immigration Laws?		

Introduction

Juvenile justice systems across the country report that they are serving increasing numbers of noncitizen youth.¹ Although these youth have many of the same needs as their citizen counterparts in the system, they also have unique and complex needs that juvenile justice systems are often not equipped to address. Many jurisdictions lack bilingual personnel, information about the immigration system and access to immigration advocacy services. Federal and state funding streams for which undocumented youth are explicitly ineligible further hinder efforts to serve these youth. These gaps and challenges can have devastating consequences for individual noncitizen youth, including prolonged and unnecessary detention, separation from family, deportation — sometimes to life-threatening situations — and inability to pursue immigration relief to which they are entitled under federal law.

Policies and practices in the field vary dramatically — both between and within jurisdictions. In addition to a lack of resources, there is confusion and disagreement among professionals regarding the appropriate role of the juvenile justice system with respect to enforcing civil immigration laws. On one end of the spectrum are jurisdictions that treat youth equally regardless of their immigration status. These jurisdictions generally do not interact with federal immigration officials. Many jurisdictions, however, have responded to the federal government's efforts to engage localities and states in immigration enforcement. A number of these jurisdictions routinely report youth whom they suspect are undocumented to Immigration and Customs Enforcement (ICE), the federal agency responsible for interior enforcement of federal immigration laws. Numerous jurisdictions fall somewhere in the middle of these two approaches. While they do not routinely identify and refer every undocumented minor as a matter of policy, these jurisdictions selectively report, for example, undocumented youth who are repeat offenders of serious crimes or who appear to have no ties to the United States. Finally, some jurisdictions have no policies at all, resulting in an ad-hoc approach that depends primarily on the probation officer assigned to the case.

Most juvenile justice professionals are not fully informed of the practical consequences of the policies and practices they adopt. Few, if any, are familiar with the immigration system generally, the types of immigration relief potentially available to noncitizen youth, the potential immigration consequences of delinquency findings or adjudications, or the juvenile justice system's legal obligations with respect to undocumented youth. However, many juvenile justice professionals make decisions based on commonly held misconceptions about their legal obligations and the consequences that flow from a decision to refer youth to federal immigration authorities. The politically charged nature of immigration creates a climate in which the relevant legal and policy questions are not openly discussed. Due to a lack of information and professional consensus, jurisdictions and individual employees are left to navigate these complex issues with little or no guidance. Compounding the overall lack of information, many jurisdictions do not have access to experts who understand the intersection between the immigration and juvenile justice systems.

This practice guide is not intended as a comprehensive immigration treatise, nor does it substitute for the assistance of an immigration expert in individual cases. Instead, it is intended to alert the reader to detention and juvenile court practices and policies that may unfairly prejudice noncitizen youth, and to provide a basic introduction to key immigration concepts and processes as they apply to youth involved in the juvenile justice system. Its purpose is to assist in the development of informed policies and procedures. Ideally, individual jurisdictions should partner with local immigration attorneys and other advocates to help develop policies and protocols, and assist in resolving individual cases.

The guide promotes policies and procedures that are consistent with detention and equity reform, and that:

- minimize unnecessary detention or separation of noncitizen youth from their families and communities;
- ensure that detention practices do not unfairly prejudice noncitizen youth;
- promote responses aimed at rehabilitation and reintegration;
- minimize the unnecessary and often devastating immigration consequences for noncitizen youth of their involvement in the juvenile justice system; and
- preserve the ability of noncitizen youth to pursue immigration relief to which they may be entitled under federal law.

The guide answers the following questions:

- What do we know about noncitizen children in the United States?
- For what purposes is immigration status relevant in the juvenile justice system?
- Are juvenile justice personnel required to assist with enforcement of federal immigration law?
- What are the policy and practice implications for juvenile justice agencies serving noncitizen youth?



Profile of Noncitizen Youth in the United States

The immigrant population in the United States has grown significantly in the last decade. According to data from the most recent census and the 2012 American Community Survey, the states with the highest number of foreign-born residents are California, New York, Texas and Florida.² However, the growth of the immigrant population is not limited to states with traditionally large immigrant presence.³ Between 2000 and 2009, the foreign-born population of Georgia, Washington, Virginia, Maryland, Pennsylvania, North Carolina, Nevada, Colorado and Tennessee increased by over 100,000 people. In Georgia, North Carolina, Nevada and Tennessee, the foreign-born population increased by more than 50 percent.⁴ During this same period, the number of foreign-born individuals increased in 48 of 50 states, and decreased in just two, and the total foreign-born population of the United States increased by 23.5 percent, or approximately 7.3 million people.⁵

The dramatic rise in foreign-born individuals residing in the United States is particularly evident among children. Approximately 23.2 percent children in the United States are either immigrants or the children of immigrants.⁶ Many children of immigrants are citizens, having been born in the United States, although their parents may or may not have legal immigration status. Other immigrant children are without legal status, but have grown up almost entirely in the United States and consider this country their only home. Some of these youth do not know the language spoken in their native country. Other children and youth are more recent immigrants, who may be completely unfamiliar with the legal system and customs in the United States.

While the majority of immigrant youth in the United States come from Mexico and Central America, approximately 10 percent come from East Asia and the Pacific, including China, Korea and the Philippines; 10.3 percent from Europe; 8.3 percent from Africa; 8.3 percent from the Middle East and South Asia; and 4.4 percent come from Southeast Asia.⁷ Some immigrant children may travel to the United States with parents, an adult relative or a family friend as infants or young children. Others arrive in the United States unaccompanied — without their parents or a legal guardian — making their way by foot, bus, train, cargo ship or plane. Some of these youth receive the assistance of smugglers or “coyotes.” Others are victims of illegal trafficking, and are forced to engage in drug trafficking, sex-work or to work in slave-like conditions in factories, as domestic servants, or in restaurants.⁸ The State Department’s most recent report estimates that between 14,500 and 17,500 people are trafficked into the United States every year.⁹ However, agencies disagree on this figure, and a report released by the Central Intelligence Agency’s Center for the Study of Intelligence estimates that the number is actually between 45,000 and 50,000 people.¹⁰ Researchers have identified numerous barriers to obtaining accurate numbers, including underreporting of trafficking offenses, and insufficient statistical and qualitative collection methods.¹¹ The State Department estimates in a recent report that up to half of international trafficking victims worldwide are minors.¹²

Several thousand unaccompanied children travel to the United States each year and come to the attention of immigration authorities.¹³ In October 2011 arrivals of unaccompanied minors significantly increased, overwhelming the federal system.¹⁴ The Office of Refugee Resettlement (ORR), the federal agency in charge of the care and custody of unaccompanied minors, reports that in fiscal year 2012, the program doubled its size over the previous eight years, which had averaged 6,775 referrals per year¹⁵ due to referrals from the Department of Homeland Security.¹⁶ The increase continued in fiscal year 2013, with the projection set at 23,500 unaccompanied minor referrals.¹⁷ These figures do not include the countless number of unaccompanied minors who entered the country undetected, or who were stopped at the border and returned to Mexico.¹⁸ These youth have often endured unspeakably traumatic experiences in their countries of origin. They come to the United States fleeing violence, persecution and extreme poverty in their home countries. Many make the difficult trip to escape severe abuse or homelessness due to abandonment. Their trauma is compounded by separation from their families and communities. Some assume exorbitant debt to come to the United States in order to help their impoverished families. Often, these youth endure dangerous and exploitative work conditions in order to pay off these debts.

Particularly for unaccompanied immigrant youth, the journey to the United States is often extraordinarily arduous and dangerous. Countless youth have been robbed, kidnapped, beaten or sexually assaulted along the way. Sometimes youth languish for many days without food or water as they cross the desert. Hundreds of young people have lost a limb or sustained other disabling injuries trying to jump on or off trains across Mexico.¹⁹

Once in the United States children without legal immigration status continue to be vulnerable. Although most undocumented youth are not responsible for their presence in this country, they live with the burdensome threat of deportation that drives them and their families into the shadows, marginalized by

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ALTHOUGH MOST UNDOCUMENTED YOUTH are not responsible for their presence in this country, they live with the burdensome threat of deportation that drives them and their families into the shadows, marginalized by the need to remain invisible.

.....

the need to remain invisible. Fear and isolation undermine their ability to meet basic needs. As a whole, undocumented youth are more likely to live in poverty,²⁰ less likely to have health insurance and more likely to encounter barriers to accessing public benefits and social services than U.S. citizen youth.

There are no reliable data on the number of noncitizen youth involved in the juvenile justice system. Most jurisdictions do not formally collect or analyze these data. Even sites actively engaged in addressing racial disparities in the justice system do not routinely collect these data, nor do they assess the extent to which these numbers contribute to racial and ethnic disparities.²¹ In addition to the overall inadequacies in data collection systems and practices, there are several distinct reasons for the lack of data on the prevalence of noncitizen youth in the system:

- Due to budget constraints, local probation agencies are reluctant to implement new data collection requirements.
- Local systems do not have the means of reliably determining immigration status.
- The immigration status of young people is not directly relevant to culpability, accountability, rehabilitation or public safety — the primary concerns of the juvenile justice system.
- Tracking immigration status invites the use of the information to imperil youth and their families for circumstances that are unrelated to alleged delinquency.
- Because immigration is so politicized, juvenile justice personnel face challenges in creating formal systems to respond to noncitizen youth, opting for a case-by-case approach that evades public scrutiny.

Despite the lack of formal data, juvenile justice professionals informally report a steep increase in the numbers of noncitizen youth involved in the delinquency system. It is impossible to verify this perception. However, it is consistent with overall population trends in the United States. Beginning in 2008 there have also been reports by the federal government of an increasing number of noncitizen youth being referred to immigration authorities by juvenile probation officers and other juvenile justice officials.²²

For What Purposes Is a Youth's Immigration Status Relevant in the Juvenile Justice System?

As local systems respond to increasing numbers of noncitizen children, they must navigate complex questions regarding the purposes for which immigration status is relevant, how and when, if ever, to determine immigration status, and the consequences for noncitizen youth of policies related to immigration status.

A. Immigration Status Determines Access to Rights, Privileges and Benefits

Immigration status refers to a person's classification under U.S. immigration laws. Immigration status determines the rights, privileges and benefits to which individual youth are entitled, and the consequences they will face when charged with a violation of law. Under U.S. immigration law, all individuals are separated into two major categories: a U.S. citizen or national and "aliens" (noncitizens).

The government cannot deport youth who are citizens, nor refuse their admission to the United States. Citizenship is generally acquired by birth in the United States, birth to a U.S. citizen parent or through the process of naturalization.²³ The vast majority of U.S. citizens acquire their citizenship because they are born on U.S. soil. Provisions in U.S. immigration law bestow citizenship by descent. These provisions may automatically transmit citizenship from one or two citizen parents to a child born abroad. Immigration law also bestows citizenship on a child who is a lawful permanent resident when at least one of the child's custodial parents becomes a citizen. U.S. citizenship, if validly acquired, may not be lost as a result of any criminal conduct or delinquency adjudication.

A person who is not a U.S. citizen is *always* subject to the possibility of deportation. The rights and benefits to which noncitizens are entitled differ depending upon their legal status. For example, a lawful permanent resident (LPR) is permitted by immigration law to live and work permanently in the United States. However, LPR status may be revoked if the holder leaves the United States for an extended period of time. Similarly, nonimmigrant visa holders, such as tourists or students, are permitted to live, study or work in the United States for a specified purpose and for a specified period of time. However, visa holders may lose their legal immigration status and become "undocumented" if they violate the terms of their visa (e.g., by dropping out of school or overstaying their visa). All noncitizens are subject to apprehension and deportation if they violate the immigration laws. Determining whether there is a violation of immigration laws and whether there is a defense to such a violation is complex and requires special expertise.

Immigration status may determine eligibility for specified public benefits and social services. Although a youth's immigration status has no bearing on culpability or accountability, it may affect his ability to access appropriate services. Generally speaking, undocumented youth are ineligible for federal benefits,

such as Medicaid and Title IV-E. Some state laws also make undocumented youth ineligible for specified public benefits and services. Thus, for the limited purpose of determining eligibility for these services, juvenile justice agencies may need to consult with immigration experts to determine a youth's immigration status. Typically, this issue would arise at the time of disposition and placement when the case plan contemplates services that may be subject to these limitations. The important distinction is the probation staff's objective. At the dispositional stage of the process, probation personnel seek to verify the youth's immigration status in order to access services as a means of supporting and facilitating the youth's rehabilitation — not as a rationale for detention or to facilitate immigration enforcement.

OVERVIEW OF IMMIGRATION STATUS: CITIZENS

- Born in the United States
- Born to a U.S. citizen parent or parents
- Naturalized (an individual immigrates to the United States, obtains lawful permanent resident status and becomes a citizen after a specified period of time)
- A person who is a lawful permanent resident under the age of 18 when one of his/her parents who has legal/physical custody of him/her automatically becomes a citizen when the parent naturalizes
- Certain persons with U.S. citizen family members (e.g., grandparents, great grandparents) may derive citizenship even if born abroad and have never lived in the United States

OVERVIEW OF IMMIGRATION STATUS: NONCITIZENS

Lawful Permanent Resident or Green Card Holder

- Permitted to live and work permanently in the United States
- Most secure immigration status, short of being a U.S. citizen
- Entitled to many benefits that U.S. citizens hold

Refugee or Asylee

- Granted refuge and status in the United States based on persecution faced (or will face) in the home country or country of origin
- Can become lawful permanent residents within a specified period of time

Nonimmigrant or Immigrant Visa Holder

- Obtained a temporary visa to enter and remain in the United States legally for a specific period of time under specific conditions
- Some visa holders can obtain lawful permanent residency, others are permitted to stay for a certain period of time
- Includes tourists, students, temporary workers, diplomats, religious workers, those who are victims of crimes and assist with an investigation or prosecution of the crime, informants and trafficking victims

Undocumented Person

- Does not have legal status under the immigration laws
- Includes persons who have crossed the border without authorization, and those with expired visas
- Always at risk of apprehension, detention and initiation of removal proceedings by immigration authorities
- Some persons are granted permission to stay in the United States even though they have no legal status and are undocumented (e.g., Deferred Action for Childhood Arrivals (DACA), created by Presidential directive)

Persons in the Process of Obtaining Legal Status

- Have an application for a visa or green card pending
- Immigration authorities are aware of their presence in the United States
- Removal proceedings deferred pending outcome of an application
- Depending on type of application, may receive a work permit/employment authorization document (EAD) to work lawfully for a specified period of time while application is pending

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Lack of legal immigration status, whether verified or suspected, is not an appropriate basis to detain youth.

Although intake systems differ across jurisdictions, all local juvenile justice systems have some process by which they determine whether individual youth should be released or detained pending the initial hearing. Ideally, intake staff administer a uniform risk-assessment instrument (RAI), and determine whether detention is necessary according to objective criteria related to public safety and the likelihood that the youth will appear at the detention hearing.

The question that emerges is should immigration status be included as an RAI risk factor, as it may be deemed pertinent to the likelihood that a youth will appear at a detention hearing? While there is no definitive answer to this question, consider the following: we are not aware of any validation study that

would condone or endorse using immigration status as a risk factor; using immigration status as a risk factor on an RAI would be culturally biased and there is research literature counseling against the use of inherently biased risk factors; and we are not aware of any JDAI sites that currently include immigration status as a risk factor in their RAI. Protocols or policies that require intake staff to determine or consider a youth's immigration status as part of the initial detention determination may subvert the purposes of risk assessment, and potentially subject youth to confinement unrelated to the purposes of detention. Furthermore, it is likely that adding immigration status as an RAI risk factor would ultimately result in the automatic detention of all undocumented youth and could lead to the extensive use of juvenile detention as a de facto immigration detention facility, which also would be contrary to the legitimate purposes of detention. For the reasons discussed in this section, attempts to ascertain immigration status at this stage are inappropriate and counterproductive.

Immigration status is unrelated to the purposes of detention. Absent independent facts correlated with risk, a youth's immigration status is not predictive of the likelihood that he/she will reoffend or fail to appear at the initial detention hearing.²⁴ For example, one cannot reliably assume that noncitizen youth lack ties to the community. Many undocumented youth have lived most of their lives in the United States. They and their families often have deep connections in their communities. Moreover, mere presence in the United States without legal status is not a crime; it is a civil violation under federal immigration laws and is not a basis for delinquency jurisdiction. In fact, detaining a juvenile solely because he is undocumented is expressly prohibited by the Juvenile Justice and Delinquency Prevention Act.²⁵ While most jurisdictions do not detain undocumented youth based solely on a civil immigration violation, many jurisdictions detain undocumented youth who are charged with a crime when they would not detain a U.S. citizen youth with comparable charges. There is no legitimate public safety rationale for detaining a youth when he would otherwise be released solely because he is undocumented. Noncitizen youth who are charged with committing a criminal offense should be subjected to the same risk-assessment process as their citizen counterparts.

Determining immigration status is complex and should only be undertaken by an immigration expert. Probation and detention personnel may suspect youth are undocumented based on external factors such as physical appearance, country of origin, primary language, surname or the immigration status of parents — none of which is dispositive of immigration status. Reliance on these factors reflects common misconceptions that lead to erroneous conclusions, and poses a significant risk of racial profiling.

A youth's self-report of his status is equally unreliable. Many youth are uncertain about their immigration status, particularly those who live in "mixed status" families in which some members are documented and some are not. Some youth who believe they are undocumented are actually U.S. citizens. For example, federal immigration law provides for automatic citizenship of a lawful permanent resident under the age of 18 when at least one custodial parent becomes a citizen.²⁶ Individuals may also acquire citizenship when U.S. citizenship can be traced through the lineage of their family, even if they were born abroad and lived there for most of their lives.²⁷ Some youth are unaware that they have attained legal status.

Seemingly neutral policies may result in disproportionate or unnecessary detention of noncitizen youth. Even when intake personnel or juvenile courts do not explicitly rely on a youth's immigration status as the basis for a detention decision, seemingly neutral grounds may produce the same result. For example, many jurisdictions assess flight risk, in part, by determining the youth's ties to the community, including the existence of a verifiable local address and the availability and capacity of the youth's parents or legal guardians to assume responsibility for him pending the initial court appearance. These criteria may unfairly prejudice noncitizen youth who may decline to disclose the identity or whereabouts of their parents or guardians if they believe that doing so will subject family members to risk of apprehension by immigration authorities.

THREE CASE STUDIES

Carlos, 11 years old and in the fifth grade, lives in a jurisdiction that requires probation personnel to refer suspected undocumented children to ICE upon booking for a felony. On a Friday afternoon, Carlos was arrested after he brought a camping knife to school. He had no criminal or school discipline history, and he lived with his siblings and parents. Nonetheless, he was detained in order to facilitate his transfer to ICE custody because the intake officer learned during booking that Carlos was born in Guatemala. His family's efforts to have Carlos released were unsuccessful until his father was able to produce a birth certificate on Monday morning. Carlos is a U.S. citizen.

Mario, age 16, was arrested when his mother falsely accused him of assaulting her. Mario was briefly detained, but the court found the charges baseless and dismissed the case at the adjudication hearing. In the interim, however, Mario's probation officer initiated the process of referring him to ICE based solely on the arrest, Mario's country of origin (El Salvador) and his inability to explain or prove his immigration status. Fortunately, Mario was represented by immigration counsel, who provided documentation showing that Mario had temporary legal status while his application for a U visa (based on having been the victim of a robbery and assault) was in process. But for the intervention of his attorney, Mario would have been placed in ICE custody, possibly in a distant location and certainly with no notice to his attorney or his family.

Juan is a 14-year-old primarily Spanish-speaking youth who was arrested for selling a small amount of marijuana. Upon arrest, the officer found a fixed blade knife. Juan had no identification and no record in the statewide fingerprint database. The only information available to the intake staff about his identity, home and family came directly from Juan. He reported that he was living with extended family nearby, working in the fields. According to Juan, his father was deceased and his mother was in Mexico with his three younger siblings. He reported being in the United States to earn money to send home and planning to return at the end of the season. Juan's risk-assessment score was low and he would have been released with a court date if probation officials had been able to release him to his parents. Instead, he was detained when a person saying he was Juan's uncle appeared, but had no proof of his relationship with Juan. The child welfare agency would not place him in foster care while the charges were pending because of his possession of a weapon. He was in custody for about three months (in a facility with an average length of stay of seven days) until he finally disclosed that his parents and siblings lived less than five miles from the detention facility. Juan said he did not disclose this information because he was worried they would be deported. He was released that same day.

Some jurisdictions require the parent or guardian to present a driver's license or social security number to verify his or her identity. As a practical matter, these requirements prevent undocumented parents, who may not possess these documents, from coming forward to assume custody of their children. Although these verification procedures might be based upon legitimate concerns and evenly applied to all youth, this method of screening parents adversely impacts noncitizen youth and unnecessarily separates them from their families.

Lack of culturally or linguistically competent services may lead to unnecessary or inappropriate detention of noncitizen youth. A significant number of noncitizen youth in the juvenile justice system are limited English proficient (LEP).²⁸ Meaningful communication between the youth and the intake staff is essential to making sound detention decisions. Intake personnel obtain crucial information from the minor in the initial interview, including background about the alleged offense, the youth's family, delinquency history and any emergent needs (e.g., intoxication, injury, disabilities). The reliability of the information depends, in large part, on the youth's understanding of the process and the ability of intake staff to communicate effectively with the youth. The utility and reliability of the intake interview is compromised unless it is conducted in the language with which the youth is most conversant. Communicating in the youth's native language builds trust, enhances the potential for a meaningful exchange of information and permits intake staff to obtain the information necessary to make appropriate decisions.

Failure to communicate with the youth in a language that he understands poses the risk of unnecessary detention. For example, youth may be reluctant to disclose the identity or whereabouts of their parents or caretakers unless they understand that the agency's goal is to release them, if possible, rather than subjecting them or their parents to the risk of deportation. Intake staff may be more inclined to recommend detention if language barriers make it difficult for them to assess the risk posed by the individual youth. Language and cultural barriers also enhance the risk of miscommunication and erroneous assumptions.

SIGNIFICANCE OF LANGUAGE CAPACITY

The significance of language capacity in reducing unnecessary detention was illustrated in Santa Cruz County, California. Local officials determined that a shortage of Spanish-speaking intake and case management staff hindered efforts to return Latino youth to their families. In response, the probation department adopted a goal to hire the same percentage of Latino and Spanish-speaking detention staff as the percentage of Latino and Spanish-speaking youth in the facility. Now, when Latino youth are brought to the facility, a Spanish-speaking officer calls the family. Combined with other measures to reduce racial disparities, this strategy resulted, over a 10-year period, in a 50 percent reduction of the number of Latino youth detained.

Another strategy to reduce pretrial detention is to utilize community-based alternatives, permitting youth who do not require secure detention to be supervised in the community or diverted from formal processing. Jurisdictions that have been most successful in reducing the use of detention have developed a continuum of community-based services with different degrees of supervision matched to the risks of youth awaiting adjudication.²⁹ To be effective, alternatives to detention must be “culturally competent, relevant, and accessible to the youth they serve.”³⁰ Noncitizen youth may be unnecessarily detained when there is a lack or shortage of community-based alternatives competent to serve them.

Lack of competent detention advocacy may also lead to unnecessary detention. Detained youth are separated from their families and communities, thwarted from assisting in the preparation of their cases, more likely to make negative peer connections, more likely to recidivate and at increased risk for negative health, mental health, educational and employment outcomes.³¹ Detaining noncitizen youth also makes it more likely that juvenile justice personnel will refer them to ICE, and trigger initiation of deportation proceedings. For these reasons, it is critical that juvenile courts appoint defense counsel prior to the initial detention hearing. Defense counsel should insist upon even application of the statutory criteria for detention, and oppose any rationale for detention that departs from, or expands upon, these criteria. Counsel should be particularly careful to expose differential treatment of noncitizen youth, and highlight the risk of racial or ethnic profiling.

PRACTICE RECOMMENDATIONS

- Juvenile justice systems should minimize unnecessary detention or separation of noncitizen youth from their families and communities by adopting protocols designed to engage families and to assess the suitability of parents or caregivers based solely upon their ability to provide appropriate care and supervision of the youth.
- Detention and intake personnel should not attempt to ascertain the immigration status of youth as part of the charging, booking or detention process, nor should they record or disclose this information.
- Juvenile justice systems should not detain or punish noncitizen youth based solely upon their suspected or verified lack of immigration status.
- If juvenile justice personnel need to know the immigration status of a youth for the limited purpose of establishing eligibility for specific services, they should consult with an immigration expert to assist in the determination.
- Juvenile justice agencies should collaborate with community partners to develop a continuum of services competent to meet the needs of noncitizen youth.
- Juvenile courts should appoint defense counsel prior to the detention hearing to ensure equitable application of detention criteria, and guard against any rationale for detention that departs from, or expands upon, these criteria.

B. Undocumented Youth May Be Eligible for Immigration Relief

Obtaining legal status permits young people to live and work openly in their communities, to remain with their families and in their schools and to gain access to resources and services that are essential to their well-being. In some cases, return to one's country of origin presents grave dangers and gaining immigration status can save a young person's life. Determining immigration status is the first step in identifying potential immigration relief to which youth may be entitled. Although detention and probation personnel are not generally qualified to ascertain a youth's immigration status, the youth's defense counsel or an immigration expert with whom defense counsel is working should determine the youth's status as early as possible.

Congress has created avenues for certain undocumented youth to obtain lawful immigration status in the United States. U.S. immigration law sometimes takes into account the unique status of youth. For example, a youth may be eligible for Special Immigrant Juvenile Status (SIJS) if he is under the jurisdiction of a juvenile court; the court has made a finding that the child cannot be reunited with one or both parents due to abuse, neglect or abandonment; and it is not in the youth's best interest to be returned to his home country.

In 2008, Congress expanded the protections for noncitizen youth seeking immigration status in the United States through the passage of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). The TVPRA made important procedural and substantive changes to broaden eligibility for immigration legal relief available to certain vulnerable youth and provided more child-sensitive procedures for those in immigration custody and at imminent risk of removal. On June 15, 2012, the Obama administration announced the Deferred Action for Childhood Arrivals program, which provides temporary protection from deportation and work authorization for young individuals who meet criteria similar to the past DREAM Act proposals in Congress.

Juvenile court judges, probation personnel and prosecutors can play an important role in helping youth attain lawful immigration status. Some forms of immigration relief depend upon the assistance of the juvenile court or law enforcement to make specific findings and to issue orders or sign certifications. SIJS, for example, requires that the juvenile court enter an order finding that it is in the youth's best interest to remain in the United States and that the youth cannot be reunified with one or both parents due to abuse, neglect, abandonment or a similar basis under state law. These orders may be entered by any court with jurisdiction over a minor, including delinquency courts. Without this order, a youth cannot apply for SIJS. The U visa is available to victims of certain serious crimes, and requires a judge, prosecutor, investigator or similar official to certify that the youth or his/her parents possess information related to the criminal activity and are willing to assist in the investigation and prosecution of the criminal activity. Without this certification, the youth cannot apply for the U visa. The federal government has the final authority to determine whether the youth meets the requirements for SIJS or a U visa and whether he is entitled to the benefit.

The juvenile justice system's immigration policies and practices can also impact a youth's access to immigration relief. Youth can pursue immigration relief either affirmatively (before they are placed in deportation³² proceedings) or defensively (while they are in deportation proceedings). Youth applying for relief affirmatively have a distinct legal advantage. Most affirmative applications for adjustment of status or immigration relief are submitted to United States Citizenship and Immigration Services (USCIS). The process is administrative, and there is no opposing party or adversarial process. On the other hand, asserting eligibility for relief defensively occurs in the context of adversarial and onerous proceedings in which the noncitizen youth is accused of unlawful conduct and opposed by the federal government. The noncitizen does not have a right to government-appointed counsel and usually is not represented in these proceedings. Probation protocols that promote access to immigration attorneys make it more likely that eligible youth can obtain immigration relief. For example, in Multnomah County (Portland, Ore.), the probation department connects undocumented youth with the local Catholic Charities for immigration legal assistance. By contrast, probation policies that result in the initiation of deportation proceedings decrease the likelihood that eligible youth will achieve legal status. Policies and practices that subject noncitizen youth to more restrictive detention criteria than those applied to citizen youth may also effectively bar those youth from accessing immigration advocacy services available in the community.

COMMON FORMS OF IMMIGRATION RELIEF FOR NONCITIZEN YOUTH

Special Immigrant Juvenile Status (SIJS)	<p>A youth can obtain lawful permanent residence if:</p> <ul style="list-style-type: none"> • He is under the jurisdiction of a juvenile court³³ (e.g., dependency, delinquency, guardianship, custody), and • The court has made a finding that reunification with one or both parents is not viable due to abuse, neglect or abandonment or a similar basis under state law, and • Return of the child to his home country is not in his best interests. <p>The juvenile court must enter an order containing these findings.</p>
Violence Against Women Act (VAWA)	<p>A youth is eligible for lawful permanent residence if:</p> <ul style="list-style-type: none"> • He has been “battered or subject to extreme cruelty” (including purely emotional abuse) by a <i>U.S. citizen or permanent resident spouse, parent or step-parent</i>, or • His parent was a victim of domestic violence by a U.S. citizen or lawful permanent resident.

Continued on page 16

T Visas for Victims of Trafficking	<p>A youth can obtain a visa with a path to permanent residence if:</p> <ul style="list-style-type: none"> • He or his parent (or siblings) is a victim of severe forms of trafficking in persons³⁴ (“human trafficking”), and • He complies with reasonable requests for assistance in the investigation or prosecution of the offense (unless he is under the age of 18), and • He will suffer extreme hardship upon removal.³⁵
U Visas for Victims of Violent Crimes	<p>A youth can obtain a visa with a path to permanent residence if:</p> <ul style="list-style-type: none"> • He or his parent (or siblings) suffers substantial physical or mental abuse resulting from a qualifying crime, and • He possesses information concerning the activity and is helpful or likely to be helpful to the investigation or prosecution of the criminal activity.³⁶ <p>A judge, prosecutor, investigator (police) or similar official must sign a certification regarding the requirements.³⁷</p>
Asylum	<p>A youth can obtain asylum with a path to permanent residence if:</p> <ul style="list-style-type: none"> • He fears return to his home country because of an individualized fear of persecution on account of race, religion, political opinion, nationality or membership in a particular social group. <p>Minor applicants are subject to specialized procedures to determine whether they have a valid asylum claim.</p>
Cancellation of Removal (CoR) for Non-Permanent Residents	<p>A youth can obtain permanent residence if:</p> <ul style="list-style-type: none"> • He has lived in the United States for a continuous period of 10 years or more, and • He can show that he has a parent, spouse or child who is a U.S. citizen or permanent resident who would suffer exceptional and extremely unusual hardship if the youth were deported.

U.S. Citizenship and Family Immigration	Some youth may be citizens based on U.S. citizenship of parents and in some cases, grandparents. Some youth may have U.S. citizen or lawful permanent resident family members in the United States who can help them become a lawful permanent resident.
Deferred Action for Childhood Arrivals (DACA)	<p>A youth can obtain temporary reprieve from deportation and work authorization for two years (not legal status) if he meets all the following criteria:</p> <ul style="list-style-type: none"> • 30 years old or younger on June 15, 2012 • Entered the United States before 16 years of age • Physically present on June 15, 2012, and had continuous residence in the United States for the preceding five years (since June 15, 2007) • Currently in school, or has graduated, or has obtained a certificate of completion from high school, or has obtained a general education development (GED) certificate • Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors (excluding juvenile adjudications and expunged offenses) • Does not pose a threat to public safety or national security
Voluntary Departure (VD)	While Voluntary Departure (VD) does not provide legal status, it allows a person to leave the United States voluntarily without placing a removal order on his record. Unlike deportation, there is no set time bar before the individual may return to the United States (if he is eligible for some type of visa). If he returns without permission, the government cannot prosecute him for the federal crime of illegal reentry to the United States.

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Noncitizen youth who are involved in the juvenile justice system need access to experienced counsel to help them navigate the immigration and juvenile justice systems. The federal immigration laws can have harsh consequences for youth and their families. There are several forms of immigration relief permitting non-citizen youth to avoid these severe consequences. However, because of the complexity of the law, young people need immigration counsel in order to assert their eligibility for immigration relief. It is particularly important that youth have access to immigration attorneys who are familiar with the juvenile justice system. Effective advocacy requires collaboration between immigration counsel and defense counsel. Appropriate and fair resolution of delinquency charges against noncitizen youth necessarily includes analysis of the potential adverse immigration consequences. Likewise, assessing the viability of potential forms of immigration relief or avenues for attaining legal immigration status requires detailed information about the nature of delinquency charges and their resolution.

C. Delinquency May Result in Immigration Penalties

Unlike criminal convictions, many delinquency adjudications do not trigger immigration penalties.³⁸ In fact, many undocumented youth with juvenile delinquency records are still eligible to obtain legal status in the United States. Similarly, the vast majority of youth who have legal status, particularly lawful permanent residents, are not deportable merely as a result of delinquency.

There are circumstances, however, under which delinquency adjudications, or the conduct upon which they are based, may impact a noncitizen youth's ability to attain or maintain immigration relief or status. The precise immigration implications of involvement in the juvenile justice system depend upon the youth's immigration status, the conduct underlying the offense with which he or she is charged or adjudicated, and the type of immigration relief the youth is requesting.

Specific delinquency adjudications, or the conduct upon which they are based, may prevent youth from maintaining or achieving legal immigration status. Noncitizens who apply for legal immigration status must prove their entitlement as a matter of law. Immigration authorities may deny status to anyone who falls under specified bars to immigration unless the individual proves that he or she qualifies for a waiver.³⁹ For example, the government may find that a youth applicant is ineligible for lawful permanent residence because there is "reason to believe" that the applicant engaged in drug trafficking.⁴⁰ In addition to the sale of drugs, drug use, prostitution and offenses related to falsely claiming U.S. citizenship may trigger bars to obtaining legal immigration status for noncitizen youth. Similarly, federal law identifies grounds for deportation of any noncitizen who has been lawfully admitted to the United States. For example, the government can deport a lawful permanent youth resident if the court finds that the individual violated a domestic violence protective order.⁴¹

CASE STUDY

Melissa's mother died when she was 5 years old, leaving her with her physically abusive, alcoholic father. During her childhood, Melissa's father repeatedly kicked her out and threatened to kill her, forcing her to live for periods of time on the streets. To escape her father's abuse and locate family members, Melissa traveled to the United States when she was 16 years old. Unable to find her family members or secure any means of supporting herself, she joined several other undocumented teens who sold drugs on the street for an adult trafficker in exchange for food, shelter and pocket change. Melissa was quickly apprehended when she attempted to sell drugs to an undercover officer. The police arrested her for drug sales and referred her to ICE. She was placed into deportation proceedings. Her attorney sought Special Immigration Juvenile Status (SIJS), on the grounds that Melissa had suffered significant parental abuse and had no available caretakers. Although she clearly met the eligibility requirements for SIJS, immigration authorities denied her application for a green card based on her adjudication for the sale of drugs.

The government may exercise its discretion to deny a benefit to a noncitizen applicant based upon specified conduct. Obtaining immigration relief from deportation is discretionary. Thus, even though a specified offense or conduct does not automatically bar immigration or trigger deportation, immigration authorities may still consider it as a significant negative factor in an application for lawful status or other discretionary immigration relief. Individuals who have engaged in gang activity or affiliation, sex offenses or violence are often prioritized for deportation. Virtually all immigration applications require disclosure of any criminal *activity* whatsoever, even if the youth has not been formally charged.

CASE STUDY

Eduardo, a 15-year-old boy from El Salvador, entered the United States unaccompanied. He was homeless, out of school and unemployed. Although he was not a gang member, he depended upon a loosely affiliated group of youth for food, shelter and companionship. He was arrested with some of these youth for spray painting graffiti on a bus. Although the charges against him were dropped, he was referred to ICE and placed into deportation proceedings. Because he was not eligible to obtain lawful permanent residence (a green card), he requested voluntary departure, a discretionary form of relief. Voluntary departure would not allow Eduardo to stay in the United States. However, unlike a formal order of deportation, voluntary departure would have permitted him to reenter the United States and apply for immigration relief if he became eligible in the future. The Immigration Judge denied his request based on the suspicion that Eduardo was affiliated with a gang, and entered a deportation order.

Juvenile defense counsel must affirmatively and competently advise a youth regarding the potential immigration penalties associated with delinquent conduct and offenses, and strategically mitigate those penalties. This information is not only crucial to developing a case strategy that best protects the client's ability to maintain or obtain legal immigration status, but according to the U.S. Supreme Court in the decision *Padilla v. Kentucky* also is required by the Sixth Amendment of the U.S. Constitution in order to provide effective assistance of counsel.⁴² Juvenile defense counsel, or immigration experts available to consult with them, must be generally aware of the types of immigration relief potentially available, the statutory grounds for each form of relief and the bars associated with that form of relief in order to preserve the youth's ability to apply for relief. This information will affect the positions taken by counsel in plea negotiations, the types of information counsel seeks to include or exclude from the record, the defenses asserted and the disposition sought. Ideally, defense counsel should collaborate with immigration counsel to devise a strategy that best protects the youth's ability to pursue immigration relief and avoids negative immigration consequences.

PRACTICE RECOMMENDATIONS

- Juvenile court judges and defense counsel should receive training concerning the potential immigration consequences of delinquency adjudications or the conduct upon which they are based.
- In individual cases, juvenile defenders should collaborate with immigration experts to mitigate the potential immigration consequences of delinquency, screen for immigration relief for which the youth is potentially eligible and take the initial steps toward applying for such relief.

Are Juvenile Justice Personnel Required to Assist with the Enforcement of Federal Immigration Laws?

Immigration and Customs Enforcement (ICE)⁴³ increasingly relies on local law enforcement in its immigration enforcement operations. In recent years, the federal government has created several enforcement programs that rely exclusively on collaborations with local and state criminal justice systems. Until recently, federal efforts to apprehend so-called “criminal aliens” were focused almost exclusively in adult jails and prisons. Today, there is increased collaboration between ICE officials and juvenile justice personnel. Some juvenile justice personnel contact ICE and permit ICE officials to enter juvenile facilities and interview youth whom they suspect may be undocumented. Even departments and staff that would prefer to stay out of immigration enforcement often believe they are legally obligated to cooperate with federal immigration officials to facilitate apprehension of individuals suspected of violating civil immigration laws.

This section of the practice guide clarifies the federal law regarding local immigration enforcement, describes the programs and mechanisms by which local law enforcement and juvenile justice systems participate in immigration enforcement, and discusses the practical and policy implications of local immigration enforcement.

A. Federal Law Does Not Require Juvenile Justice Personnel to Enforce Federal Civil Immigration Laws

Under our Constitution, the federal government and the states have different powers and responsibilities. Although the balance of powers established by federalism is often in dispute, state and federal governments have historically been responsible for distinct areas of law. Immigration is an area delegated exclusively to the federal government by the Constitution. In contrast, responsibility for juvenile justice has been reserved for the states.

The states cannot pass laws that regulate “who should or should not be admitted into the country and on what terms those lawfully admitted can remain here.”⁴⁴ Likewise, the federal government cannot require state or local officials to enact or enforce federal laws or regulations.⁴⁵ Consistent with this structure, there is no duty under federal law for state or local law enforcement officials to ask about immigration status or report noncitizens to federal immigration agencies. State or local law enforcement officials, however, may voluntarily report noncitizens to immigration authorities, and states and local governments can pass legislation and adopt policies that require or facilitate local cooperation with federal authorities. Indeed, federal law prohibits state and local governments from passing laws or adopting policies that prevent public employees from sending to, or receiving from, ICE information about the immigration status of

any individual.⁴⁶ Notwithstanding this provision, several jurisdictions have adopted policies that limit local assistance with immigration enforcement. These policies prohibit law enforcement officials from inquiring about an individual's immigration status,⁴⁷ prohibit the use of local funds or resources for the purposes of enforcing federal immigration law,⁴⁸ and/or prohibit disclosure of specific categories of information.⁴⁹

B. The Federal Government Has Created Programs That Facilitate the Voluntary Cooperation of Local Law Enforcement in the Enforcement of Civil Immigration Laws

In 2008, ICE created the Agreements of Cooperation in Communities to Enhance Safety and Security Initiative ("ICE ACCESS"). ICE ACCESS merged 13 of ICE's immigration enforcement programs into an umbrella regime, which further introduced immigration enforcement practices into state and local criminal justice systems.

There are two primary immigration enforcement programs under ICE ACCESS with which juvenile justice personnel should be familiar. The newest and most controversial program under ICE ACCESS is Secure Communities (S-Comm). In jurisdictions complying with S-Comm, fingerprints taken after arrest by local or state law enforcement agencies are not only checked against state and federal (FBI) criminal databases, but also forwarded by the FBI to the Department of Homeland Security to be checked against civil immigration databases. Federal immigration authorities are notified of *every* arrest — whether the arrestee is a citizen or noncitizen, regardless of the booking offense, and even if criminal charges are never brought or if the individual is acquitted. Nothing in the language of S-Comm expressly exempts juveniles. However, sample data received from the Department of Homeland Security indicate that very few juveniles have been apprehended through S-Comm.

An older program upon which ICE continues to rely and which appears to operate in the juvenile justice system is the Criminal Alien Program (CAP). Through CAP, ICE agents either receive information or ask probation and detention officers to share information regarding foreign-born arrestees and gain access to youth either by phone or by entry into the detention facility. ICE officials may interview youth whom they suspect are removable, or may simply issue an immigration hold, a request to the agency holding an individual to notify immigration authorities of his or her release in order to facilitate transfer to ICE for deportation, based on information that the arrestee was born outside of the United States. While youth are typically referred to ICE through juvenile probation and detention personnel, in some jurisdictions police departments, prosecutors and courts may also alert ICE at any time in the course of juvenile proceedings.

There is no mechanism to opt out of S-Comm, meaning that local law enforcement cannot ask the Department of Homeland Security (DHS) to refrain from reviewing the fingerprints of juveniles once they are sent to the FBI for federal criminal background checks. The effects of the Criminal Alien Program, however, can be limited by local law enforcement, by declining to share information about individuals in custody and not allowing federal immigration officials to enter juvenile detention facilities.

A number of law enforcement agencies across the country limit the federal government's access to such information and facilities both for adults and juveniles.

Immigration enforcement in the juvenile justice system is generally implemented through the use of "immigration detainers," also known as "ICE holds." Regardless of the particular immigration enforcement program that operates in a given locality to identify noncitizens suspected of violating civil immigration laws, ICE generally relies upon the use of holds to apprehend suspected noncitizen youth. An ICE hold is a *request* that an agency, such as a juvenile detention facility, notify DHS prior to release of an individual so that immigration authorities can arrange to assume custody for the purpose of arresting and removing the youth.⁵⁰ Once immigration authorities learn that a juvenile in custody is foreign born or has been identified as a noncitizen through the S-Comm program, ICE may issue a hold to ensure that the youth is transferred into federal custody upon his or her release from a juvenile detention center. Thus, instead of releasing youth when the juvenile court orders the release or when the disposition is complete, detention personnel retain custody to make youth available for transfer to ICE. In order to ensure the transfer of custody to ICE, juvenile justice personnel often delay release of youth who are subject to ICE holds, subjecting them to longer periods of detention than similarly situated citizen youth.⁵¹ The transfer to ICE may occur regardless of the seriousness of the crime alleged, whether the youth arrested *in fact* committed an offense and whether the youth is actually removable from the United States.

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ON JANUARY 1, 2014, the TRUST Act (AB 4), a California state law went into effect. The law limits the ability of local law enforcement to hold certain individuals subject to immigration holds for federal immigration authorities.⁵² In the case of juveniles, local law enforcement may respond to an immigration hold for juveniles who are in the juvenile justice system only in two specific circumstances: 1) if the juvenile was adjudicated for an offense that was committed when the juvenile was 16 years of age or older and is listed in California Welfare & Institutions Code § 707(b); or 2) if the juvenile is currently registered on the sex or arson registry. Outside of these two situations, the TRUST Act specifically prohibits local law enforcement from detaining a juvenile in the juvenile justice system on an immigration hold past the time he or she is otherwise eligible for release from custody. Even in these types of cases, local law enforcement is never required to detain the juvenile pursuant to the immigration hold and remains free to release and not report any noncitizen youth. If a juvenile is being charged or tried as an adult or is convicted of an offense as an adult, there are a number of circumstances that allow local law enforcement to hold the juvenile for immigration authorities.

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Compliance with ICE holds is not mandatory. According to ICE, three federal courts, and various state and local counsel, ICE holds are merely *requests*, enforceable at the discretion of local officials.⁵³ Constitutional separation of powers prohibits the federal government from coercing any state or local agency into utilizing its own resources for the purpose of enforcing a federal regulatory scheme, such as immigration.

Some youth subject to ICE holds are not removable and some are eligible for relief from deportation. An ICE hold is not the equivalent of a criminal arrest warrant. Unlike criminal arrest warrants, ICE holds are issued by the prosecuting agency itself — not by a neutral, third-party adjudicator — and, unlike arrest warrants, in many cases they are issued without probable cause. ICE holds have been issued based solely on the civil immigration agency’s interest in investigating a person’s immigration status, even if no formal proceeding has been initiated. In fact, these individuals may have lawful status or even U.S. citizenship. The issuance of an ICE hold does not guarantee that the youth is subject to immigration laws or removable from the United States. The U.S. government does not indemnify localities who may be found liable for damages as a result of an erroneously issued ICE hold.⁵⁴

Federal regulations provide that a law enforcement agency may hold a noncitizen on an ICE hold *no more than 48 hours* past the time when he or she otherwise would have been released, excluding weekends and holidays.⁵⁵ The 48-hour period may be triggered in a number of situations: the case is still pending but the court orders release, the case is dismissed and the youth is to be released, or the youth has completed the disposition. State and local law enforcement officers may not, on their own, hold an alleged noncitizen beyond the time the individual would otherwise be released. Only ICE or designated law enforcement officers under a Memoranda of Understanding with ICE are authorized to place an ICE hold on an individual.⁵⁶

Juvenile detention facilities have no authority to detain youth past the 48-hour period, while waiting for ICE to pick up the youth. In fact, a recent court decision suggests that any detention beyond the time of release under state law may be unconstitutional, notwithstanding the federal regulations on the 48-hour period.⁵⁷ The federal District Court of Oregon, in *Miranda-Olivares v. Clackamas County*, found the County liable for violating plaintiff Miranda-Olivares’s constitutional rights by detaining her on an ICE hold, because there was no probable cause. Therefore, continuing to detain a noncitizen minor past their release date and solely on the basis of an ICE hold raises serious Fourth Amendment and due process concerns risking local liability. It further violates the federal Juvenile Justice and Delinquency Prevention Act, which prohibits the secure detention of nonoffenders. There are many cases that have been decided or are pending against local agencies for unlawfully detaining individuals on ICE holds.⁵⁸

C. State and Local Laws May Require, Permit or Limit Local Enforcement of Federal Civil Immigration Laws

Federal law neither requires nor prohibits cooperation of juvenile justice personnel with federal immigration authorities. However, in order to evaluate their legal obligations with respect to noncitizen youth,

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LOCAL POLICY The Los Angeles Police Department adopted a policy that prohibited its officers from initiating any police action for the sole purpose of investigating an individual's immigration status. The policy was upheld by the California Court of Appeal. The court found that the policy was not preempted by, nor did it violate, federal immigration law. *Sturgeon v. Bratton*, 174 Cal. App. 4th 1407 (2009).

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juvenile justice personnel must also be familiar with state and local laws and policies governing their jurisdictions.

Local and state officials' ability to assist with enforcement of civil immigration laws may be subject to limitations by state or local laws and policies. In many states, enforcement of immigration laws against juveniles may violate provisions of state law relating to treatment of juveniles in the juvenile justice system.⁵⁹ Most states have laws strictly limiting the release of information pertaining to youth subject to juvenile court jurisdiction. Confidentiality of juvenile court records is one of the cornerstones of the juvenile justice system because it supports the central goal of rehabilitation. Probation officials who release confidential case records to federal immigration authorities may face civil or criminal liability for violation of state confidentiality laws.

Several states and local governments have also adopted "sanctuary" laws or policies, which prohibit local enforcement of civil immigration laws. These provisions typically prohibit juvenile justice and law enforcement personnel from utilizing public money to identify or apprehend individuals based solely on their suspected immigration status.

Although federal law does not require juvenile justice personnel to report noncitizen juveniles, some states and local jurisdictions have voluntarily adopted laws requiring state and local officials to enforce immigration law by reporting noncitizens in specified circumstances. In recent years, several states and localities have passed broad anti-immigrant laws. The specific provisions of the laws vary, but they have the common objective of identifying and facilitating the deportation of any individual in the jurisdiction who lacks legal immigration status. A primary strategy for achieving this objective is requiring local officials to actively engage in the enforcement of federal civil immigration laws. For example, Arizona's law (SB 1070) requires police officers to investigate the immigration status of all individuals they stop if the officers suspect that the individuals are in the country unlawfully.⁶⁰ Several other state laws contain similar provisions. While none of the laws expressly applies to juvenile justice agencies, neither are noncitizen youth explicitly exempted from their broad reach. Virtually all of these laws are the subject of ongoing litigation, and many have been challenged by the Department of Justice.

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STATE LAW Oregon state law prohibits law enforcement agencies from utilizing any public resources “for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.” ORS section 181.850.

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D. Reporting Youth to Immigration Authorities Undermines the Fundamental Goals of the Juvenile Justice System

Immigration enforcement initiated by local juvenile justice officials punishes youth for a status over which they have no control. A youth’s undocumented immigration status is rarely a result of his decisions. More frequently it is based on decisions made by parents or other adults, or upon exigent circumstances outside the youth’s control. Reporting youth to ICE punishes them for situations they did not cause and often results in sanctions grossly disproportionate to the alleged conduct that brought them into contact with the justice system.

These inequities are exacerbated in jurisdictions that report youth to ICE at the booking stage — a practice that can result in erroneous referrals and prolonged detention both in juvenile and in immigration custody. According to a June 2009 study by the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention, only 56 percent of juvenile delinquency cases handled by probation departments nationwide during 2005 resulted in the filing of a petition against the youth. Of these, only 66 percent were sustained. Nearly 33 percent of juvenile cases (539,700 out of 1,697,900) were dismissed, and another 20 percent (344,300) resulted in minor sanctions following diversion or dismissal.⁶¹ Referring youth to ICE prior to adjudication severely punishes youth who otherwise would have been released and triggers a series of potentially harmful consequences. Similarly, ICE’s placement of “immigration holds” on youth typically results in prolonged detention in the juvenile justice system, as well as placement in a secure immigration detention facility, sometimes located hundreds or thousands of miles from their homes, families and communities.

Immigration enforcement may substantially undermine juvenile justice procedures. When youth are reported to immigration authorities, their juvenile cases are typically suspended indefinitely pending the completion of the immigration removal process. For example, when a youth is referred to and taken into custody by ICE while his juvenile proceedings are pending, the delinquency proceedings continue in the youth’s absence, often resulting in the juvenile court issuing warrants for his failure to appear, despite his inability to do so. Similarly, violations of probation, resulting in issuance of warrants, may also result when a youth

CASE STUDY

A 15-year-old girl admitted to a social services provider that she hit her sister in an argument. Reluctantly, the provider — who is a mandated reporter under the state law — made a report to Child Protective Services, which led to a referral to law enforcement. The police arrested her for felony assault, despite the fact that there were no weapons or injuries. The jurisdiction's policies require that probation personnel report anyone who is arrested for a felony and suspected of being undocumented. ICE took custody of the girl and transported her to an immigration detention facility hundreds of miles from her home, where she awaits the resolution of deportation proceedings. A victim of significant past trauma, this young woman is devastated by the separation from her family and potential deportation to a country with which she has no ties.

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is placed on probation, but fails to report because he is in federal custody. Once a youth is transferred to federal immigration authorities, the distance and the logistical complexities significantly limit the youth's ability to contact the court and probation department in the original jurisdiction. Finally, as a result of the referral, youth are removed from a system designed to address their behaviors and placed in a system focused solely on removing them from the country.

Immigration enforcement violates the core principle of confidentiality in the juvenile justice system. Confidentiality promotes rehabilitation because it avoids attaching the stigma of criminality to youth, whose age and immaturity renders them less culpable and more amenable to change. When delinquent youth are reported to ICE, information that is purportedly obtained by juvenile justice officials to help gauge the youth's needs and circumstances is instead used against them in the deportation process. Youth who are referred to immigration authorities suffer long-term stigma from the delinquency charge. They face the prospect of severe punishment in the immigration system through secure detention, denial of immigration relief and separation from their families.

Immigration enforcement against juvenile offenders runs directly counter to the presumption that family reunification is the main vehicle through which youth obtain the care and guidance to rehabilitate themselves. Immigration enforcement does not solidify the ties between a youth and his family, and often divides them. Referral ensures that some youth who have lived in the United States for all or most of their lives with their families will be separated from their families — often at great distances — regardless of their particular circumstances. If youth and their families know that the information pertaining to family members will be shared with immigration authorities, families are likely to abstain from participation in the juvenile justice process. Family involvement is crucial to the success and well-being of youth, and the viability of most case plans.

Policies authorizing investigation and disclosure of a juvenile's immigration status, or that of his family, erode community trust and cooperation with law enforcement and the judicial system. Where local officials enforce civil immigration laws, noncitizen youth have legitimate reason to withhold information from law enforcement or juvenile justice personnel,⁶² hindering the development of an effective case plan to promote their rehabilitation and prevent recidivism. In addition, public safety may suffer when juvenile justice systems participate in immigration enforcement, because community members may be hesitant to report juveniles who could face disproportionate immigration consequences or whose families could come under scrutiny. For this reason, both the Major Cities Chiefs (an association of the 64 largest police departments in the United States and Canada) and the 20,000-member International Association of Chiefs of Police have opposed the local policing of federal immigration laws absent direct federal order or the presence of a federal warrant.⁶³

Juvenile justice personnel charged with investigating and reporting suspected undocumented immigrant youth are not well equipped to interpret complex federal immigration law, placing them at risk of liability. Immigration law is complex and subject to frequent changes, and an individual's immigration status is not verifiable by simply checking a database. Determination of immigration status is difficult and contains many fact-based exceptions that may make undocumented youth eligible for relief. Enforcement of such complex and ever-changing laws requires weeks of training and continuing education, as well as knowledge of case histories and files in the sole possession of the Department of Homeland Security. Local officials who are required to apply federal immigration law are likely to make mistakes, sometimes with devastating consequences.

Lawsuits have been filed against counties after probation officers took action based on erroneous conclusions regarding an individual's immigration status. In *Soto-Torres v. Johnson*, for example, local and federal government officials paid \$100,000 to settle a lawsuit arising from a San Joaquin County probation officer's determination regarding the plaintiff's immigration status. This county probation officer's incorrect assessment of the plaintiff's deportability led to the plaintiff's wrongful arrest and detention by immigration authorities, ultimately exposing the county to significant liability.⁶⁴ In *Guzman v. Chertoff*, the United States, Department of Homeland Security and the Los Angeles' Sheriff's Department (LASD) settled a claim for \$350,000 for the wrongful deportation of a cognitively impaired U.S. citizen who spent three months lost in Mexico due to LASD's erroneous referral to immigration authorities.⁶⁵ The settlements in both *Soto-Torres* and *Guzman* highlight the risks involved when state and local officials work with ICE to make immigration referrals. Both *Soto-Torres* and *Guzman* involved adult plaintiffs who had been incorrectly referred, but the same injuries that yielded costly settlements in those cases could occur where youth are erroneously detained or deported.

Referring youth to immigration authorities undermines their access to immigration relief. Congress has created several means by which undocumented youth may apply to adjust their immigration status. Notifying immigration authorities before a qualified attorney or other advocate screens youth for

eligibility effectively cuts off avenues to federal immigration relief. ICE, the federal immigration agency that interfaces with the juvenile justice system at the front door, neither screens youth for potential forms of relief nor provides them with immigration attorneys. Once apprehended, ICE or the Office of Refugee Resettlement (ORR),⁶⁶ may — and often does — transfer youth to detention facilities in remote areas far from their families, making it virtually impossible to assert a viable claim for relief.

Most youth who are referred to immigration authorities eventually return to their communities. Reporting youth to ICE or other federal immigration agencies does not ensure that youth will be deported or permanently removed from the community, nor does it facilitate rehabilitation. In the majority of cases, ICE transfers custody of youth to ORR — the agency responsible for the detention of “unaccompanied youth” in deportation proceedings. Under federal law, ORR is required to reunify children with their parents or other responsible family members when possible. In approximately 90 percent of the cases ORR receives, youth are reunified with family members. This percentage is higher for juvenile justice-involved youth. Thus, youth who are referred to ICE usually return to their communities while removal proceedings are pending. Attorneys and social workers working with these youth report that they often return to the community with more setbacks than when they first came into contact with the local juvenile justice system. In particular, these youth return home traumatized by their experiences in immigration detention, having received no support or services designed to help them rehabilitate and reintegrate into their communities. They and their families emerge from these experiences mistrusting the local juvenile justice system, further undermining any local efforts to ensure that they do not reoffend.

CASE STUDY

Gregory applied for Special Immigrant Juvenile Status, a form of relief to obtain lawful permanent residency based on his status as a dependent of the juvenile court and the court’s finding of parental neglect, abuse and abandonment. His immigration attorney was in the area and he was receiving services from the local child welfare system. While the application was pending, Gregory was arrested for assaulting his father during a family dispute. His probation officer referred him to immigration authorities, and ICE transported Gregory to an out-of-state detention center. In that process he lost access to his attorney, and the medical and mental health services he had been receiving. The significant trauma he had endured was unaddressed and he experienced serious difficulties coping in a secure detention facility. Gregory decided to give up his pursuit for lawful status and agreed to be deported even though he no longer had family in his country of origin.

COMMONLY HELD MYTHS ABOUT IMMIGRATION ENFORCEMENT

MYTH: Federal law requires juvenile justice personnel and other law enforcement officials to report undocumented youth to ICE.

FACT: No federal law requires state and local law enforcement officials to affirmatively enforce federal civil immigration laws, and there is no duty under federal law for state or local law enforcement officials to identify noncitizens or to report them to federal immigration authorities.

MYTH: Noncitizen youth are automatically subject to deportation if delinquency charges against them have been sustained.

FACT: Although noncitizen youth may be deportable on the grounds that they lack legal immigration status, delinquency adjudications, in most cases, do not render noncitizen youth deportable under federal law.

MYTH: Referring undocumented youth to ICE ensures that they will not return to their communities.

FACT: Undocumented youth with juvenile records may be eligible for relief from deportation. Pending resolution of their application for immigration relief, youth may be in deportation proceedings for many months and in some cases a year or more. During that time, youth return to their communities because the Office of Refugee Resettlement (ORR), a federal agency charged with the care and custody of these youth, is obligated to reunify them with their families, whenever possible. Eighty-eight percent of children in ORR custody are in fact reunified with family members while their removal proceedings are pending. This percentage is higher for youth who are juvenile justice involved due to the presence of family in the United States. Ultimately, many youth are granted legal status in the United States.

MYTH: When ICE places an “immigration detainer” or “ICE hold” on a youth, it means that the youth is deportable from the United States.

FACT: An ICE detainer is not a court order or court-approved criminal warrant, but merely a notice or request generated by ICE. Representatives from ICE may place a detainer on anyone whom they believe is a noncitizen and whom they *suspect* of violating immigration laws. Many youth subject to detainers are NOT removable—either because they have citizenship or lawful status, or because they are eligible for relief from deportation under federal law.

MYTH: Referring youth to ICE promotes public safety.

FACT: If local officials enforce immigration laws, immigrant youth have legitimate reason to avoid reporting or providing information to the police about crimes; they are likely to withhold important information necessary to develop an effective case plan to promote their rehabilitation and prevent recidivism; their families are likely to abstain from participating in the juvenile justice process; and in the worst case, they will fail to comply with case plans or decline to appear for any meetings and hearings. Community members may also hesitate to report crime if they know local law enforcement agencies assist in immigration enforcement.

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PRACTICE RECOMMENDATIONS

- Juvenile justice agencies should clarify that agency resources should be focused on investigating and responding to delinquent behavior, and should not be utilized to resolve ancillary matters, like immigration status, that are more appropriately resolved by other public agencies.
- Juvenile justice agencies should adapt existing policies and curricula to identify the ways that local enforcement of federal immigration laws may undermine important objectives of the juvenile justice system.
- Juvenile justice agencies should adopt and implement policies that:
 - Establish clear direction about the limited purposes for which agency personnel may question youth regarding their immigration status, place of birth or country of origin;
 - Clarify what, if any, information agency personnel may share with federal immigration authorities, and for what purposes;
 - Explain the purpose and legal effect of immigration holds; and
 - Prohibit detention personnel from holding youth beyond the time when they would otherwise be released for the purpose of facilitating a transfer to ICE.
- Juvenile justice agencies should develop partnerships with immigration advocates to develop networks of referrals for youth who may benefit from immigration assistance.
- Juvenile justice agencies should provide ongoing training and technical assistance to agency personnel to clarify the agency's obligations and objectives related to serving noncitizen youth.

Resources

Legal Services for Children (LSC) was founded in 1975 as one of the country's first nonprofit law firms to provide free legal representation and social work services to children and youth. The organization's mission is to ensure that all children in the San Francisco Bay Area are raised in a safe environment with equal access to a meaningful education and other services that are necessary to thrive and grow. LSC believes that youth deserve positive alternatives to unnecessary placement in foster care, juvenile justice facilities and immigration detention. LSC pioneered the interdisciplinary approach that is considered best practice in juvenile law today.

Immigration law became a central part of LSC's practice in 1990, when Congress passed Special Immigrant Juvenile Status as a form of immigration relief for abused, abandoned or neglected children. LSC founded the Detained Immigrant Children Project (DICP) in 2001 to address the growing need in the San Francisco Bay Area for sensitive, appropriate and competent advocacy and services for immigrant children in removal proceedings. Today LSC is a leading practitioner-expert in Special Immigrant Juvenile Status in the Bay Area and annually provides 400 undocumented children who are detained, recently released or at-risk for removal, with legal advocacy that includes legal screening, information and referrals, and full scope case representation. In addition to direct services, LSC engages in training, technical assistance and policy advocacy related to the intersection of the juvenile justice and immigration systems.

The **Immigrant Legal Resource Center (ILRC)**, founded in 1979 and based in San Francisco, California, is a national resource center that provides training, consultations and publications on immigration law. The ILRC's mission is to work with and educate immigrants, community organizations and the legal sector to continue to build a democratic society that values diversity and the rights of all people.

ILRC is one of the lead agencies in the United States with expertise on the immigration consequences of crime and delinquency. ILRC writes the only legal treatise in the Ninth Circuit on the intersection between immigration and criminal laws entitled, *Defending Immigrants in the Ninth Circuit: Impact of Crimes under California and Other State Laws* (10th Edition ILRC). The publication is widely referenced by immigration judges, federal court judges and immigration and criminal defense attorneys. ILRC also produces resources on immigration, youth and juvenile justice issues including, *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth* (3rd Edition ILRC) and *Immigration Benchbook for Juvenile and Family Court Judges* (2010 ILRC). In 2011, the ILRC partnered with the National Council of Juvenile and Family Court Judges to write an article entitled, "Special Immigrant Juvenile Status: Relief for Neglected, Abused, and Abandoned Undocumented Children" for their *Juvenile & Family Court Journal, Special Issue — Immigration Issues in the Juvenile and Family Courts*. The

ILRC has provided extensive training on the intersection between the juvenile justice and immigration systems to judges, law enforcement officials, juvenile defenders and social workers. The ILRC has partnered with the Office of Refugee Resettlement, a federal agency that is responsible for the care and custody of unaccompanied minors in deportation proceedings, to provide local trainings to juvenile probation departments and other juvenile justice system stakeholders on juvenile immigration issues.

ILRC and LSC, along with the W. Haywood Burns Institute, form a collaboration called the **Immigrant Youth Justice Initiative (IYJI)**. This initiative is funded by the Public Welfare Foundation to explore the impact of local immigration enforcement on racial disparities in the juvenile justice system. At the beginning of the initiative, juvenile justice stakeholders in three California jurisdictions were surveyed to identify the extent to which local immigration enforcement impacts the detention of immigrant youth and contributes to racial and ethnic disparities. Currently IYJI provides on-site training for surveyed sites in an effort to develop a best practice model for immigrant youth in the juvenile justice system and is helping to implement the California TRUST Act through California's probation departments.

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ENDNOTES

1. For the purposes of this practice guide, the term “undocumented youth” refers to youth without legal immigration status. The term “noncitizen youth” refers to youth who are not citizens, including undocumented youth, youth with temporary visas (e.g., tourist visas) and permanent resident youth.
2. Thematic Map of Foreign Born; Estimate; Total Population; Geography: by State, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_S0501&prodType=table
3. Pew Hispanic Center. “A Statistical Portrait of the Foreign-Born at Mid-Decade,” Table 11: Change in Foreign-Born Population by State, 2000–2005. Retrieved from www.pewhispanic.org/2006/10/17/a-statistical-portrait-of-the-foreign-born-population-at-mid-decade/
4. Pew Hispanic Center. “A Statistical Portrait of the Foreign-Born at Mid-Decade,” Table 12: Change in the Foreign-Born Population, by State: 2000 and 2009. Retrieved from [www.pewhispanic.org/2011/02/-\[=0;lmntl/17/statistical-portrait-of-the-foreign-born-population-in-the-united-states-2009/](http://www.pewhispanic.org/2011/02/-[=0;lmntl/17/statistical-portrait-of-the-foreign-born-population-in-the-united-states-2009/)
5. *Ibid.*
6. Pew Charitable Trusts. (2011, Spring). Demography of Immigrant Youth: Past, Present, and Future. *Immigrant Children*, 21(1). Retrieved from www.futureofchildren.org/futureofchildren/publications/docs/21_01_02.pdf
7. The Urban Institute. Data from the integrated Public Use Microdata Series datasets drawn from the 2008–2009 American Community Survey. Available at <http://datatool.urban.org/charts/datatool>
8. The U.S. Department of State estimates that each year around 800,000 people are trafficked across international borders. U.S. Department of State, Office to Monitor and Combat Trafficking in Persons. (2008, June). *Trafficking in Persons Report, Introduction*. Retrieved from www.state.gov/g/tip/rls/tiprpt/2008/index.htm
9. U.S. Congressional Research Service. Trafficking in Persons: U.S. Policy and Issues for Congress (RL34317; Oct. 29, 2010), by Alison Siskin, Liana Sun Wyler. Accessed: Sept. 9, 2011.
10. Richard, A.O. (1999, November). *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*. Washington, D.C.: Center for the Study of Intelligence, p. iii.
11. Clawson, H.J., Layne, M., & Small, K. (2006, Sept.). *Estimating Human Trafficking into the United States: Development of a Methodology*. Retrieved from www.ncjrs.gov/pdffiles1/nij/grants/215475.pdf
12. U.S. Department of State, *Trafficking in Persons Report*.
13. Federal law defines the term “unaccompanied alien minor” as an individual under the age of 18 who has no lawful immigration status in the United States and does not have any parent or legal guardian in the United States who is willing or able to provide care and physical custody. 6 USC §279(g)(2); U.S. Department of Health and Human Services, Office of Refugee Resettlement, www.acf.hhs.gov/programs/orr/programs/unaccompanied_alien_children.htm
14. Pew Hispanic Center. “A Statistical Portrait of the Foreign-Born at Mid-Decade,” Table 11: Change in Foreign-Born Population by State, 2000–2005. Retrieved from www.pewhispanic.org/2006/10/17/a-statistical-portrait-of-the-foreign-born-population-at-mid-decade/
15. See www.acf.hhs.gov/programs/orr/programs/ucs/about. The Office of Refugee Resettlement, Division of Children Services’s Unaccompanied Alien Children (ORR) is a division of the United States. Department of Health and Human Services that is charged with the care and custody of unaccompanied youth who are in the process of being removed from the U.S. Unaccompanied under federal law means an undocumented person under the age of 18 who does not have a parent or legal guardian who is willing or able to provide care and physical custody. 6 U.S.C. § 279(g)(2). The Department of Homeland Security (DHS), which includes

Immigration Customs and Enforcement and Customs and Border Protection, apprehend all youth, but only retain custody of accompanied youth. It appears that very few youth are classified as accompanied.

16. *Ibid.*

17. *Ibid.*

18. Bhabha, J., & Schmidt, S. (2006, June), *Seeking Asylum Alone: Unaccompanied and Separated Children and Refugee Protection in the U.S.* Cambridge, MA: University Committee on Human Rights Studies, Harvard University. Retrieved from www.humanrights.harvard.edu/images/pdf_files/Seeking_Asylum_Alone_US_Report.pdf

19. Nazario, S. (2006). *Enrique's Journey: The Story of a Boy's Dangerous Odyssey to Reunite with his Mother*. New York: Random House.

20. "...The poverty rate of children with two immigrant parents is higher, particularly for immigrant children born abroad. In 2009, the poverty rate of U.S.-born children with two immigrant parents was 28.5 percent, while that for foreign-born children was 31.6 percent." Princeton University and Brookings Institution. (2011, Spring). Poverty and Program Participation among Immigrant Children. *Immigrant Children*, 21(1), p. 6. Retrieved from www.futureofchildren.org/futureofchildren/publications/docs/21_01_11.pdf

21. W. Haywood Burns Institute. (2009). *The Keeper and the Kept*. San Francisco, CA: W. Haywood Burns Institute, p. 9. Retrieved from www.burnsinstitute.org/downloads/BI%20Keeper%20Kept.pdf

22. Presentation by Maureen Dunn, Former Director of U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Division of Children's Services (ORR) at the 2009 National Conference on Unaccompanied Immigrant Children in Washington, D.C. This increase has also been reported to the Immigrant Legal Resource Center by agencies serving such youth including the Lutheran Immigrant and Refugee Service, Vera Institute of Justice's Unaccompanied Children Program, immigrant youth legal service providers across the country, juvenile probation departments and juvenile defenders.

23. Immigration and Naturalization Act §§ 301–310; 8 U.S.C. §§ 1401–1421

24. For example, evidence from Cook County, Illinois (where ICE detainees or ICE holds are not honored by local law enforcement), indicates that the federal government's interest in individuals who may be removable for civil immigration violations does not increase the probability of a flight risk. "ICE detainees a public-safety issue?" WBEZ 91.5 Chicago, (May 16, 2012). Retrieved from www.wbez.org/news/ice-detainers-public-safety-issue-99190

25. The Act provides that "juveniles [...] charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or alien juveniles in custody, or such non-offenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities." 42 U.S. Code §5633(a)(11)(B)

26. 8 U.S.C. § 1431

27. 8 U.S.C. § 1401

28. A person is classified as LEP if he or she has a limited ability to read, write, speak or understand English. Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, *Federal Register*, Vol. 67, No. 117, p. 41457, June 18, 2002.

29. DeMuro, P. *Pathways to Detention Reform, Vol. 4: Consider the Alternatives: Planning and Implementing Detention Alternatives*. Baltimore, MD: Annie E. Casey Foundation, p. 12. Retrieved from www.aecf.org

30. *Ibid.*, p. 13.

31. Dangers of Detention, pp. 1–2; Ten Principles for Providing Effective Defense Advocacy at Juvenile Detention Hearings, National Juvenile Defender Center, p. 1.

32. Throughout this practice guide, we use the terms deportation and removal interchangeably to refer to proceedings in which an individual is ordered to leave the country. Under the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA),

these proceedings are called removal proceedings. Court proceedings initiated before April 1, 1997, are called either deportation or exclusion proceedings instead of removal proceedings.

33. A juvenile court is defined broadly as a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles. 8 C.F.R. § 204.11(a)
34. 8 USC § 1101(a)(15)(T)
35. For information on the T visa, visit www.lafla.org (the Legal Aid Foundation of Los Angeles).
36. 8 USC § 1101(a)(15)(U)
37. For information on the U visa, visit www.ilrc.org and www.nationalimmigrationproject.org.
38. The Board of Immigration Appeals (BIA) has consistently held “that juvenile delinquency proceedings are not criminal proceedings, that acts of juvenile delinquency are not crimes, and that findings of juvenile delinquency are not convictions for immigration purposes.” *Matter of Devison*, 22 I&N Dec. 1362 (BIA 2000) (en banc), citing *Matter of C.M.*, 5 I&N Dec. 27 (BIA 1953), *Matter of Ramirez-Rivero*, 18 I&N Dec. 135 (BIA 1981)
39. 8 U.S.C. § 1182
40. 8 U.S.C. § 1182(a)(2)(C)
41. 8 U.S.C. § 1182(a)(2)(E)(ii)
42. *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010)
43. While this document refers to ICE as the primary agency with which juvenile justice systems interact, systems personnel located in border states may also interact with Customs and Border Patrol (CPB).
44. *Arizona v. United States*, 567 US at *2–3 (2012); *De Canas v. Bica*, 424 U.S. 351, 355 (1976)
45. *New York v. United States*, 505 U.S. 144, 166 (1992); *Printz v. United States*, 521 U.S. 898, 927 (1996)
46. Federal law provides: “Federal, state or local government entity or official may not prohibit, or in any way

restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.” 8 U.S.C. § 1373

47. See *Sturgeon v. Bratton*, 174 Cal. App. 4th 1407 (2009), upholding the policy of the Los Angeles Police Department prohibiting officers from initiating police action with the sole objective of inquiring into the immigration status of an individual.
48. See, for example, Cook County Ordinance 11-O-73 (declining to respond to ICE detainers); Santa Clara County Board Policy 3.54 (same); see also District of Columbia Act 19-379 (limiting response to ICE detainers).
49. See, for example, Santa Clara County Board Policy 3.54 (prohibiting County personnel from expending time and resources responding to ICE inquiries and communicating regarding incarceration status and release dates).
50. The legal authority for ICE holds is in 8 USC § 1357(d) and the law implementing ICE holds is found in the Code of Federal Regulations at 8 CFR § 287.7.
51. Center on Juvenile and Criminal Justice found that immigration enforcement in the California juvenile justice subjects youth to unnecessary prolonged detention, costing taxpayers an estimated \$127,978 per year. Teji, S. (Aug. 2013). *The Unnecessary Detention of Undocumented Youth*. www.cjcj.org/uploads/cjcj/documents/cjcj_juvenile_ice_hold_factsheet.pdf. At least two studies have also found that ICE hold requests result in an average of 21 days longer in custody than those without. See Greene, J.A. (2012, Aug. 22). *The Cost of Responding to Immigration Detainers in California, Preliminary Findings*. Brooklyn, NY: Justice Strategies; White, K.A., & Dwight, L. (2012, Dec. 1). *Misplaced Priorities: SB90 & The Costs to Local Communities*. Denver: The Colorado Fiscal Institute. See also, Beckett, K. and Evans, H. (2013) *Immigration Detainer Requests in King County, Washington: Costs and Consequences*. University of Washington. Guttin, A. (2010, Feb.) *The Criminal Alien Program: Immigration Enforcement in Travis County, Texas*. Washington, DC: Immigration Policy Center; Shahani, A. (2010,

Oct.). New York City Enforcement of Immigration Detainers, Preliminary Findings. Brooklyn, NY: Justice Strategies.

52. The full text of the TRUST Act is available at: www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0001-0050/ab_4_bill_20131005_chaptered.pdf.

53. See *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317 (D. Or. April 11, 2014); *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. Mar. 4, 2014); *Morales v. Chadbourne*, No. 12-0301 (D.R.I. April 24, 2012); Letter from ICE to various House of Representatives, dated February 25, 2014 (“While immigration detainers are an important part of ICE’s effort to remove criminal aliens... they are not mandatory as a matter of law.”) See also California Attorney General Kamala Harris, Attorney General, Responsibilities of Local Law Enforcement Agencies under Secure Communities, Information Bulletin, December 4, 2012 (“Several local law enforcement agencies appear to treat immigration detainers, sometimes called ‘ICE holds,’ as mandatory orders. But immigration detainers are not compulsory. Instead, they are merely requests enforceable at the discretion of the agency holding the individual arrestee.”) available at: www.aclunc.org/docs/immigration/ag_info_bulletin.pdf (last accessed November 16, 2013); Letter from David Venturella Assistant Director Immigration and Customs Enforcement to Santa Clara County Counsel Miguel Marquez (“ICE views an immigration detainer as a request that a law enforcement agency maintain custody of an alien”) Available at: <http://media.sjbeeze.org/files/2011/10/4-ICE-response-to-SCC.pdf> (last accessed November 16, 2013); Letter from Santa Clara County Counsel Miguel Marquez to Members of Board of Supervisors, (Sept. 1, 2010) (“there is no statutory or regulatory requirement that the County comply with a detainer’s notification or information sharing provisions). Available at: http://altopolimigra.com/wp-content/uploads/2012/05/2010-09-01_SC-County-Counsel-Memo.pdf (last accessed November 16, 2013); Letter from Illinois State Attorney Anita Alavarez to Cook County Commissioner Garcia (July 26, 2011) (“ICE detainers are not akin to a criminal warrant, but rather a voluntary request of a law enforcement agency to cooperate with ICE”). Available at: http://altopolimigra.com/wp-content/uploads/2011/12/SA-opinion-7_26_11.pdf (last

accessed November 16, 2013); Memorandum from County Attorney Robert A. Cuevas, Jr. to Miami-Dade Mayor Carlos Gimenez (July 15, 2013) (“compliance with ICE detainer requests is voluntary and not mandated by federal law or regulations”) See Alfonso Chardy, *County Attorney: Feds can’t require longer immigration detentions*, Miami Herald, July 29, 2013, Available at www.miamiherald.com/2013/07/29/3529450/county-attorney-feds-cant-require.html; Letter from Santa Cruz County Counsel Dana McRae to Board of Supervisors (“ICE has admitted ... that detainer requests are, in fact, voluntary with no penalty for failure to comply”). Available at: http://sccounty01.co.santa-cruz.ca.us/Bds/Govstream/BDSvData/non_legacy/agendas/2012/20120522/PDF/055.pdf (last accessed November 16, 2013). See also Congressional Research Service, “Immigration Detainers: Legal Issues” at p. 12 (August 31, 2012) (“the federal government recently appears to have taken the position that detainers are “requests,” not “orders”” citing to *Uroza v. Salt Lake County*, No. 11-0713 (D. Utah. filed Aug. 5, 2011) available at www.fas.org/sgp/crs/homesecl/R42690.pdf

54. “ICE will not indemnify localities for any liability incurred because the Anti-Deficiency Act prohibits such indemnity agreements by federal agencies.” Letter to Miguel Marquez, County Counsel, County of Santa Clara, from David Venturella, Immigration and Customs Enforcement Assistant Director, dated 2010. (On file with author.)

55. 8 CFR § 287.7(d). Form I-247 indicates that “holidays” means federal holidays.

56. 8 CFR § 287.7(d)

57. *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317 (D. Or. April 11, 2014). As a result of this decision many County Sheriffs in Oregon, Washington state, and Colorado as well as some in California are no longer holding individuals on ICE holds for ICE.

58. See e.g., *Morales v. Chadbourne*, No. 12-0301 (D.R.I. April 24, 2012); *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. Mar. 4, 2014); *Roy v. Los Angeles County*, No. 12-9012 (C.D. Cal. filed October 19, 2012), *Brizuela v. Feliciano*, No. 12-0226 (D. Conn. filed Feb. 13, 2012); *Jimenez Moreno v. Napolitano*, No. 11-05452

- (N.D. Ill. filed Aug. 11, 2011), *Cacho v. Gusman*, No. 11-0225 (E.D. La. filed February 2, 2011); *Uroza v. Salt Lake County*, No. 11-0713 (D. Utah. filed Aug. 5, 2011).
59. Such states laws are not in violation of federal law. Notably, in *City of New York v. United States* the Second Circuit Court of Appeals indicated that an executive order that was part of a “generalized confidentiality” policy necessary for “the performance of legitimate municipal functions” would not be in violation of federal law. (179 F.3d 29, 35–37 (2d Cir. 1999)) Juvenile state confidentiality laws are such generalized confidentiality laws created for the protection and rehabilitation of juveniles.
60. The U.S. Supreme Court has declined to rule on the constitutionality of this provision prior to its implementation. However, the court made clear that detaining individuals solely to verify their immigration status would raise constitutional concerns. *Arizona v. United States*, 567 U.S. (2012).
61. Sickmund, M. (2009, June). *Delinquency Cases in Juvenile Court, 2005 Fact Sheet*, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. Retrieved from www.ncjservehttp.org/NCJJWebsite/publications_detail.asp?n=NCJ224538
62. National Immigration Law Center. (2004). “Sample Language for Policies Limiting the Enforcement of Immigration Law by Local Authorities.” Retrieved from www.nilc.org/document.html?id=321
63. See MCC Immigration Committee Recommendations, www.houstontx.gov/police/pdfs/mcc_position.pdf and Police Chiefs Guide to Immigration, www.theiacp.org/documents/pdfs/Publications/PoliceChiefsGuidetoImmigration.pdf
64. *Soto-Torres v. Johnson*, CIV S-99-1695 WBS/DAD (E.D. Cal. filed Aug. 30, 1999); Holding, R. (1999, Sept. 19) Heavy-handed INS agents. *San Francisco Chronicle*, SC-2. Retrieved from www.sfgate.com/cgi-bin/article.cgi?f=/c/a/1999/09/19/SC80136.DTL
65. Gamboa, S. (2006, Apr. 13). AP Impact: Citizens Held as Illegal Immigrants. *The Monitor*.
66. ORR is a federal agency that is charged with the care and custody of “unaccompanied” immigrant minors who are in deportation proceedings. Unaccompanied is defined under federal law as a person under the age of 18 who does not have a parent or legal guardian who is willing or able to provide care and physical custody. The vast majority of youth who are apprehended by ICE are designated as unaccompanied and therefore, are in the custody of ORR and not ICE during their deportation proceedings.



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[Close Window](#)

Utah State Courts

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Font Size: [A](#) [A](#) [A](#)

Section 4.11 Non-Resident Alien Minors

[Table of Contents](#) | [Previous](#) | [Next](#)

Policy:

This policy is to provide guidelines in the handling of delinquency matters of non-resident alien minors who are not U.S. citizens or U.S. nationals, consistent with state and federal statute.

Scope:

This policy applies to all probation officers of the Utah State Juvenile Court.

Authority:

[UCA 78A-6-103](#)Utah Rules of Juvenile Procedure - [Rule 10](#) & [Rule 26](#)

Utah Administrative Rule 547-13

United States Code - The Immigration & Nationality Action, Section 287 (8 USC 1357)

Procedure:

1. The role of the probation officer is not to determine legal residency. However, if it becomes apparent during the judicial process that the minor is a non-resident alien and referred for a felony offense then U.S. Immigration Customs Enforcement (ICE) will be notified.
2. Non-resident alien minors may be held in a detention facility when it is requested by ICE or local law enforcement and the referral is accompanied with an ICE detainer.
3. Non-resident alien minors may be held in a Youth Services Receiving Center when no offense has been alleged and the minor does not otherwise meet the admission criteria for a secure detention facility.
4. When ICE is involved the probation officer shall contact the appropriate consulate. The following is contact information for the Mexican and Canadian Consulates (refer to the internet for other consulate information):

Mexican Consulate-Embassy 1380 South Main Street Salt Lake City, UT. 84115 Tel: (801)359-4766 Ext 16 Fax (801)521-0534	Canadian Consulate-General 1625 Broadway, Suite 2600 Denver, CO 80202 Tel: (303)626-0640 Fax: (303)572-1158
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5. If it appears imminent that the non-resident alien minor is being deported, the probation officer shall make recommendations to the Court for placement in detention for 30 days to be served with early release authorized to ICE. A review shall be set within 30 days to ensure that the minor has been released.
6. If the minor is dependent and is not deported, the probation officer shall staff the case for placement with the Division of Child and Family Services or the Division of Juvenile Justice Services.

History: November 1, 2001 - Revised November 19, 2010

[Table of Contents](#) | [Previous](#) | [Next](#)

[Close Window](#)

Utah State Courts

This page has been formatted for printing.

Font Size: [A](#) [A](#) [A](#)

Section 4.11 Foreign National Minors

Table of Contents

Policy:

This policy is to provide guidelines in the handling of delinquency matters of foreign national minors who may have legal or undocumented immigration status.

Scope:

This policy applies to all probation officers of the Utah State Juvenile Court.

Authority:

[UCA 78A-6-103](#)

Utah Rules of Juvenile Procedure - [Rule 26](#)

Utah Administrative Rule 547-13-9

United States Code - The Immigration & Nationality Action, Section 287 (8 USC 1357)

[Addressing Immigration Issues Juvenile Court](#)

Procedure:

1. The role of the probation officer is not to determine or inquire about immigration or foreign national status. However, if the probation officer becomes aware of a minor's immigration or foreign national status, the probation officer may communicate with U.S. Immigration Customs Enforcement (ICE) about that minor if directed by the court or at the request of ICE.
2. Upon the request of a foreign national minor or if an ICE detention hold has been filed, the probation officer shall notify the appropriate consulate of the minor's arrest or detention. In cases where the foreign national minor is from a mandatory notification country, the consulate must be notified of the arrest or detention even if the foreign national does not request or desire notification. (Refer to the following website for a list of consulate and countries of mandatory notification <https://travel.state.gov/content/travel/en/consularnotification.html>)
3. The probation officer shall inform the court when ICE has submitted a written detainer to hold a foreign national minor.
4. If it appears imminent that the foreign national minor is being deported, the probation officer shall make recommendations to the court regarding detention status.
5. If the minor is dependent and not deported the probation officer shall make a referral to the Division of Child and Family Services.

History: Revised and approved March 9, 2017

[Table of Contents](#) | [Previous](#) | [Next](#)

Page Last Modified: 7/31/2017
[Return to Top](#) | [Close Window](#)

76-9-1006 Enforcement of federal immigration laws.

A state or local governmental agency of this state, or any representative of the agency, may not:

- (1) limit or restrict by ordinance, regulation, or policy the authority of any law enforcement agency or other governmental agency to assist the federal government in the enforcement of any federal law or regulation governing immigration; or
- (2) limit or restrict by ordinance, regulation, or policy the authority of any law enforcement agency to investigate or enforce any violation of the federal misdemeanor offenses of willful failure to register as an alien or willful failure to personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e) or 1306(a).

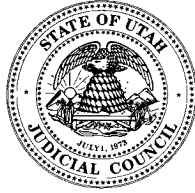
Enacted by Chapter 21, 2011 General Session

76-9-1007 Determining an alien's immigration status -- Transfer or maintenance of information.

- (1) Except as limited by federal law, any state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of any person by communicating with any federal, state, or local governmental entity for any lawful purpose, including:
 - (a) determining a person's eligibility for any public benefit, service, or license provided by any federal agency, by this state, or by any political subdivision of this state;
 - (b) confirming a person's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;
 - (c) if the person is an alien, determining if the person is in compliance with the federal registration laws of Title II, Part 7, Immigration and Nationality Act; or
 - (d) a valid request for verification of the citizenship or immigration status of any person pursuant to 8 U.S.C. Sec. 1373.
- (2) This section does not implement, authorize, or establish the federal REAL ID Act of 2005, P.L. 109-13, Division B; 119 Stat. 302, except as provided by Section 53-3-104.5, regarding limitations on the state implementation of the federal REAL ID Act.

Enacted by Chapter 21, 2011 General Session

Tab 9



Administrative Office of the Courts

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

May 3, 2018

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: The Management Committee and Judicial Council
FROM: The Uniform Fine and Bail Committee
RE: Renewal of the Uniform Fine and Bail Committee

The Uniform Fine Schedule Committee ("Committee") is identified as one of the Standing Committees under Rule 1-205(1)(A)(ii) of the Rules of Judicial Administration. It is also referred to as the Uniform Fine and Bail Committee. The Committee consists of judges from the district, justice and juvenile courts throughout the state. It meets at least once each year, but often it meets many times throughout the year. The annual meeting takes place in early spring, after the close of the legislative season and before the Judicial Council's May meeting. The Committee's primary purpose is to review new laws that create Class B, Class C misdemeanors or Infractions, and for each new law to:

1. set recommended fine/bail amounts,
2. determine if it requires an appearance before the court,
3. recommend whether there should be a compliance reduction; and,
4. determine if a traffic code violation is a moving violation.

The Committee also reviews the existing schedule to consider changes that are recommended by its staff, by state agencies, other judges, court practitioners and the general public. At the end of the annual meeting the Committee prepares a recommendation for review and approval by the Judicial Council.

As a standing committee, the Committee is subject to a performance review by the Management Committee at least once every six years to determine if the Committee continues to serve its purpose. The Committee respectfully suggests that it has and continues to serve its primary purpose each year. As long as the legislature creates new misdemeanor and infraction offenses, there is a need for a uniform recommendation on how to address the charged offenses. This uniformity and predictability benefits the public, court operations, law enforcement and court practitioners.

The Committee is currently reviewing the factors that impact how recommended fine and bail amounts should be set, which could create significant changes to the schedule while being nearly revenue neutral over-all. The Committee is also aware that there are changes being made to the pre-trial release processes that may require a review of whether fine amounts and bail amounts should be calculated separately. A proposal addressing these modifications was presented to the Management Committee last summer. The Committee received feedback, and is currently working to address those concerns.

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