

JUDICIAL COUNCIL MEETING

AGENDA

November 21, 2022

Meeting held through Webex
and In Person

Matheson Courthouse
Council Room
450 S. State St.
Salt Lake City, UT. 84111

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report Chief Justice Matthew B. Durrant
(Information)
3. 9:10 a.m. State Court Administrator's Report.....Ron Gordon
(Information)
4. 9:15 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Budget and Fiscal Management Committee Judge Kara Pettit
Liaison Committee..... Justice Paige Petersen
Policy, Planning, and Technology Committee Judge Samuel Chiara
Bar Commission.....Margaret Plane, esq.
(Tab 2 - Information)
5. 9:25 a.m. Board of District Court Judges Report.....Judge James Brady
(Information) Shane Bahr
6. 9:35 a.m. Committee on Court Forms Report..... Nathanael Player
(Tab 3 - Information)
7. 9:45 a.m. Model Utah Civil Jury Instructions Committee Report...Alyson McAllister
(Information) Lauren Shurman
Jace Willard
8. 9:55 a.m. Senior Judge Appointment..... Neira Siaperas
(Tab 4 - Action)

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|-----|------------|--|---|
| 9. | 10:00 a.m. | Justice Court Reform | Judge Paul Farr
Jim Peters
Ron Gordon |
| 10. | 10:15 a.m. | Rules for Final Approval
(Tab 5 - Action) | Keisa Williams |
| 11. | 10:25 a.m. | Old Business/New Business
(Discussion) | All |
| 12. | 10:35 a.m. | Executive Session | |
| 13. | 10:35 a.m. | Adjourn | |

❖ *The Annual Judicial Council photo will be taken immediately following the meeting.*

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 Appointment
(Tab 6) | MUJI – Criminal Michael Drechsel |
| 2. Forms Committee Forms
(Tab 7) | Kaden Taylor |
| 3. Rules for Public Comment
(Tab 8) | Keisa Williams |

Tab 1

**JUDICIAL COUNCIL MEETING
Minutes**

October 24, 2022

**Meeting held through Webex
and In-person**

**Matheson Courthouse
Council Room
450 S. State St.
Salt Lake City, Utah 84111**

9:00 a.m. – 3:50 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Keith Barnes
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Samuel Chiara
Hon. Augustus Chin
Hon. David Connors
Hon. Ryan Evershed
Hon. Paul Farr
Hon. James Gardner
Hon. Elizabeth Lindsley
Hon. Thomas Low
Hon. David Mortensen
Justice Paige Petersen
Hon. Kara Pettit

Excused:

Margaret Plane, esq.

Guests:

Kate Bradford, Kem C. Gardner Institute
Andrea Brandley, Kem C. Gardner Institute
Hon. Craig Bunnell, Seventh District Court
Jacqueline Carlton, OLRGC
Erik Christiansen, Utah State Bar
Sue Crismon, Office of Innovation
Hon. Lee Edwards, Logan Justice Court
Phil Dean, Kem C. Gardner Institute

AOC Staff:

Ron Gordon
Neira Siaperas
Michael Drechsel
Brody Arishita
Shane Bahr
Katy Burke
Todd Eaton
Alisha Johnson
Wayne Kidd
Jessica Leavitt
Tania Mashburn
Heather Marshall
Jordan Murray
Bart Olsen
Jim Peters
Nathanael Player
DeeDee Sonntag
Nick Stiles
Karl Sweeney
Sonia Sweeney
Melissa Taitano
Chris Talbot
Keisa Williams
Jeni Wood
Kim Zimmerman

Guests Cont.:

Grace Spulak, National Center for State Courts

Hon. Brendan McCullagh, West Valley Justice Court
Miguel Medina, Court Interpreter

Mark Urry, TCE Fourth District Court
Hon. Danalee Welch-O'Donnal, Grand County
Justice Court

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

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

Motion: Judge David Connors moved to approve the September 13, 2022 Judicial Council meeting minutes, as amended to change “do” to “does” in section 14, page 11. Judge Paul Farr seconded the motion, and it passed unanimously.

2. OATH OF OFFICE FOR JUDGE SUCHADA BAZZELLE, JUDGE JAMES GARDNER, AND JUDGE THOMAS LOW: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant administered the Oath of Office to new Council members, Judge Suchada Bazzelle, Judge James Gardner, and Judge Thomas Low and welcomed them to the Council.

3. SELECTION OF JUDICIAL COUNCIL EXECUTIVE COMMITTEES: (Ron Gordon)

Ron Gordon reviewed current and proposed Judicial Council executive committee members, noting that the Management Committee approved the proposed changes. He recommended the following changes.

- Judge Kara Pettit be moved from the Liaison Committee to the Management Committee. Judge Pettit will remain on the Budget and Fiscal Management Committee;
- Judge Elizabeth Lindsley be assigned to the Management Committee;
- Judge Low be assigned to the Liaison Committee;
- Judge Gardner be assigned to the Policy, Planning, and Technology Committee;
- Judge Bazzelle be assigned to the Policy, Planning, and Technology Committee.

Motion: Judge Paul Farr moved to approve the assignments of Judge Pettit and Judge Lindsley to the Management Committee; the assignment of Judge Low to the Liaison Committee; and the assignments of Judge Gardner and Judge Bazzelle to the Policy, Planning, and Technology Committee, as presented. Judge Connors seconded the motion, and it passed unanimously.

4. SELECTION OF JUDICIAL COUNCIL VICE CHAIR: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant recommended Judge David Mortensen be appointed as the Vice Chair to the Judicial Council pursuant to UCJA Rule 1-201 Membership – Election, which states “the Council may elect a vice-chairperson to conduct meetings of the Council when the Chief Justice is absent.”

Motion: Judge Pettit moved to approve Judge Mortensen be appointed as the Vice Chair to the Judicial Council, as presented. Judge Lindsley seconded the motion, and it passed unanimously.

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

Chief Justice Durrant thought the new Judicial Council member orientation went well and was delighted to have the three new judges on the Council.

6. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Mr. Gordon announced Katy Burke as the new Treatment Court Coordinator. Mr. Gordon updated the Council that, per the Council's previous conversation regarding drug testing facilities not providing timely results, Shane Bahr is holding discussions with the executive branch who holds the contract and with the contracted facilities to ensure they understand what is expected. Mr. Gordon reminded the Council that the annual Council photo will be taken at the November meeting and asked that they attend in person, if possible.

7. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The work of the committee will be addressed later in this meeting.

Liaison Committee Report:

Judge Pettit mentioned that things are moving through interim committees as the time draws closer to the 2023 General Legislative Session. Michael Drechsel is participating in meetings regarding a new business court proposal. There will be a presentation at the Fall Forum on this proposal. The preliminary hearing issues from last year will continue to be a topic of discussion. Mr. Drechsel is working with the Board of Pardons and the Department of Corrections regarding legislative discussions about removing indeterminate sentencing. The juvenile expungement bill that did not pass last session will be brought again for consideration at the upcoming session. Senator Todd Weiler agreed to run the Courts' bill to request a new juvenile court judge in the Fourth District Juvenile Court as well as the financial transaction fees.

As she exits the Liaison Committee, Judge Pettit noted that she has enjoyed her time on the Committee and the opportunity to work with Mr. Drechsel, who was fabulous.

Policy, Planning, and Technology Committee Report:

Their last meeting was cancelled.

Bar Commission Report:

Margaret Plane was unable to attend. Erik Christiansen updated the Council that the committee created by the Bar Commission continues their study on the possibility of housing the Office of Legal Services Innovation (Office), including assessing employment-related issues, legal issues in relation to the current lawsuit against the Bar, and creating a budget for the Office. They anticipate having a response to the Supreme Court by the end of 2022.

Two legislators created a workgroup to create a business chancery court, which would create two new judges with statewide jurisdiction to hear certain types of cases that are legislatively defined. This is expected to mimic the Arizona model. Justice Paige Petersen

wondered if the Commission explored having the business chancery judges housed within the district court. Mr. Christiansen said they evaluated this possibility but felt it would be better to keep it separate from the current existing courts.

The Bar will hold their 2022 Fall Forum on November 4 and their Spring Convention will be held in St. George from March 16-18, 2023.

8. OFFICE OF LEGAL SERVICES INNOVATION UPDATE: (Sue Crismon)

Chief Justice Durrant welcomed Sue Crismon. The majority of services rendered have been for business purposes, followed by veteran/military cases. The Office has also serviced court patrons with accident/injury, end-of-life planning, marriage/family, immigration, financial, housing, employment, and domestic violence cases. There has been less than 1 complaint per 4,800 services provided.

Key points from the Stanford Law Report on Legal Innovation After Reform Study
<https://law.stanford.edu/2022/09/29/stanford-law-report-on-legal-innovation-after-reform/>

- Lawyers are playing a central role in the entities and the innovation within them.
- A majority of entities are using both technology and other innovations to deliver services in new ways, mostly to consumers and small businesses.
- UPL reform appears to be critical to serving lower-income populations.
- Reform efforts to this point do not appear to pose a substantial risk of consumer harm.

Funding update

- First quarter burn rate is lower than budgeted due to delay in hiring a Senior Research Analyst.
- Updating contracts to bring rates on par with market norms required putting contracts up for bid.
- The projected number of audits has not yet materialized.
- The Stand Together Grant application is still being considered.

Next steps

- The Office is working on a Bar budget proposal.
- The next fiscal quarter will give a better estimate of the burn rate as data contractors move daily operations to the Senior Research Analyst and development slows.
- The Office is working with the AOC procurement on the 2023 contract for the entity management system with an estimated number of licenses needed.

Chief Justice Durrant thanked Ms. Crismon.

9. BUDGET AND GRANTS: (Karl Sweeney, Alisha Johnson, Todd Eaton, Brody Arishita, Chris Talbot, Jessica Leavitt, and Jordan Murray)

Chief Justice Durrant welcomed Karl Sweeney, Alisha Johnson, Todd Eaton, Brody Arishita, Chris Talbot, Jessica Leavitt, and Jordan Murray. As of September 29, the courts have \$259,244 in ongoing turnover savings for FY 2023. As of September 16, the courts have a potential amount of \$3,925,724 in one-time turnover savings. The remaining forecasted funds

available for FY 2023 year-end spending is \$876,929, which includes \$851,000 in Council-approved funds and \$45,872 in new requests.

ARPA Funds

	Funded by	GOPB	Requested	Approved	Actual FY 2022 Expended	Actual FY 2023 Expended	Balance
	Legislature	Approved	Amount	Amount	Amount	Amount	Available
IT Access to Justice - Response to COVID - Part I	May-21	Yes	11,000,000	11,000,000	3,042,468	1,585,662	6,371,870
Courts Case Backlog - Part I*	May-21	Yes	1,000,000	1,000,000	707,963	172,289	119,748
Subtotal			12,000,000	12,000,000	3,750,431	1,757,951	6,491,618
Requests to Legislature for FY 2023 - \$3,000,000 approved by the Legislature			Requested	Approved	Actual 2022	Actual 2023	Available
IT Access to Justice - Response to COVID - Part II	2022 GS	Submitted 10/21	1,373,400	1,373,400	-	-	1,373,400
Courts Case Backlog - Part II	2022 GS	Submitted 10/21	1,000,000	1,000,000	-	-	1,000,000
COVID-19 Supplies	2022 GS	Submitted 10/21	640,000	302,100	-	-	302,100
Legal Sandbox Response to COVID	2022 GS	Submitted 10/21	649,000	324,500	-	-	324,500
Self-Help Center	2022 GS	Submitted 10/21	64,000	-	-	-	-
Interpreter Equipment	2022 GS	Submitted 10/21	97,000	-	-	-	-
Eviction Court	2022 GS	Submitted 10/21	166,000	-	-	-	-
Public Outreach & Engagement	2022 GS	Submitted 10/21	30,000	-	-	-	-
IT Access to Justice - Response to COVID - Part III	2022 GS	Submitted 10/21	1,881,500	-	-	-	-
Subtotal			5,900,900	3,000,000	-	-	3,000,000
			\$ 17,900,900	\$ 15,000,000	\$ 3,750,431	\$ 1,757,951	\$ 9,491,618

The final date for ARPA spending is December 31, 2024. The cut off date for lost revenue is December 31, 2023. Ms. Johnson explained that they anticipate all ARPA funds will be expended. Brody Arishita didn't believe there would be any issues with meeting spending deadlines because they are in constant communication with the vendors.

IT Equipment Funding for Newly Hired Judicial Assistants (JAs) \$5,872 one-time funds

As a result of legislative funding approved to hire additional JAs for debt collection and to handle additional caseload for DUIs, the courts will hire 7 new JAs in Q1/Q2 FY 2023. These new hires need IT equipment to perform their jobs.

Motion: Judge Connors moved to approve the IT Equipment Funding for Newly Hired Judicial Assistants request for \$5,872 in one-time funds, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

Build-out of Replacement for Courts' Access Revenue System \$40,000 one-time funds

The IT Department and Finance worked together to build a replacement revenue system using a more robust open source web browser based software system as the code base and customizing it to meet the needs of the courts. This new system is designed to be flexible in meeting new demands and uses code that is more robust than Access. IT has funded this project entirely from its internal funds for approximately eight months but has reached the limits of the funds it can use.

Motion: Judge Connors moved to approve the Build-out of Replacement for Courts' Access Revenue System request for \$40,000 in one-time funds, as presented. Judge Chin seconded the motion, and it passed unanimously.

Reallocation of Retiring Farmington Courthouse Construction Bond
\$399,045.93 FY 2024 ongoing funds

The objective of this request is to reallocate the retiring construction bond annual rent payment (\$399,045.93) so the court may retain the amount as a credit towards the construction of a new Farmington Courthouse. The Courts will be proposing the replacement of three aging courthouses (Farmington, Layton and Bountiful) with a new combined facility that will also provide for future expansion in a growing county. It is anticipated that the new courthouse will be built on the existing Farmington Courthouse site with a portion of the existing building to be sold to Davis County. The courts will also be exploring the sale of the existing State-owned Layton Courthouse to Layton City. The existing Bountiful Courthouse is a shared building that is leased from Bountiful City. It is unknown at this time if these other facility changes will provide additional funding reallocation opportunities for the new project. Judge Chiara asked for confirmation that the money accumulated will be used for the project. Chris Talbot confirmed that the saved funds will accumulate and be used for the new courthouse.

Motion: Judge Connors moved to approve the Reallocation of Retiring Farmington Courthouse Construction Bond for \$399,045.93 in FY 2024 ongoing funds, as presented. Judge Brian Brower seconded the motion, and it passed unanimously.

Rate Increase for Certified Contract Court Interpreters

Ms. Leavitt proposed to increase the rate for interpreters. This change will allow contract court interpreters to remain competitive in the intermountain west market where average pay ranges between \$25-\$50. This increase will enhance the courts' competitive advantage in recruiting interpreters and expand its interpreter roster. New rates would be Certified \$52; Approved \$41; Registered \$41; and Conditionally-Approved \$23. The funding for the rate increase is coming from the JWI fund. JWI can cover the cost of an estimated \$41,000-\$42,000. Because this is JWI funding, this is not a Judicial Council budget request, rather, Ms. Leavitt sought only for the Council's approval to change the rate. Judge Connors asked if this was enough of a raise. Ms. Leavitt thought it was for now but the conversations may continue with the ever-evolving industry. Mr. Sweeney explained that the Council recently approved a raise for interpreters and that this was a supplement to that. Judge Gardner recognized the hard work of the interpreters. Mr. Gordon explained that this possible raise was discussed with interpreters throughout the state.

Motion: Judge Connors moved to approve the interpreter pay increase rate to \$52 for Certified Interpreters; \$41 for Approved Interpreters; \$41 for Registered Interpreters; and \$23 for Conditionally-Approved Interpreters paid through the JWI fund, as presented. Judge Gardner seconded the motion, and it passed unanimously.

DWS Grant

Mr. Murray requested permission from the Council to execute the agreement with the Utah Department of Workforce Services (DWS) to fund the FY 2023 costs associated with statute in HB 359 Eviction Records Amendments, which became effective on July 1, 2022. The bill addressed the expungement of eviction records and anticipated one-time costs to the courts totaling \$116,600 through FY 2023. To fund this mandate, the Legislature is utilizing previously authorized federal Emergency Rental Assistance funds disbursed as a noncompetitive subaward grant issued through Utah DWS serving as the passthrough agency. There is no cash or in-kind match from the courts. The one-time reduction was only for FY 2023; the courts will receive the full amount for FY 2024.

Motion: Judge Connors moved to approve the agreement with DWS for a grant in the amount of \$116,600, as presented. Judge Chin seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Mr. Sweeney, Ms. Johnson, Mr. Eaton, Mr. Arishita, Mr. Talbot, Ms. Leavitt, and Mr. Murray.

10. COURT COMMISSIONER CONDUCT COMMITTEE REPORT: (Judge Ryan Harris and Keisa Williams)

This item was postponed.

11. BOARD OF JUVENILE COURT JUDGES REPORT: (Judge Craig Bunnell and Sonia Sweeney)

Chief Justice Durrant welcomed Judge Craig Bunnell and Sonia Sweeney. Since the last report to the Council in May 2022, the Board of Juvenile Court Judges has initiated or continued working on the below-listed items.

- a) **Judicial Weighted Caseload Study.** The Board established a standing Juvenile Judicial Workload Committee which held its first meeting on May 2, 2022. The committee reviewed judicial workload case weights that were impacted the most by the pandemic or by legislative and other changes in judicial work. The selected case weights are being updated to accurately reflect the current workload. The committee and the juvenile court data team are finalizing a judicial workload survey that will reflect updated judicial processes and include time needed for virtual and hybrid hearings.
- b) **Racial, Equity, and Fairness Workgroup.** The Workgroup (formerly known as the Racial and Ethnic Disparities initiative) has been working to secure research partners for phase II of the Board's Fairness and Accountability project. To secure access to resources and appropriate research partners who can do complex juvenile court analysis, they will consider integrating their efforts under the Office of Fairness and Accountability umbrella.
- c) **Assessment of Juvenile Defense.** Juvenile court judges and staff will participate in the upcoming assessment by the Gault Center to evaluate access to counsel and quality of legal representation for Utah youth in delinquency cases. The Center has conducted similar assessments in 28 states to date. There are six components to the assessment:
 - 1) Access to Counsel and Quality of Representation
 - 2) Indigent Defense Structural Overview

- 3) System Impacts to Justice and Fairness
- 4) Promising Practices
- 5) Recommendations for the State
- 6) Recommendations for Local Systems

The Utah assessment will involve select counties and include court observations and interviews with judges, administrators, district leadership and employees, and other stakeholders. Judges will be able to opt in or out of the interviews, particularly if there are concerns about discussing specific issues regarding juvenile defense counsel.

Chief Justice Durrant thanked Judge Bunnell and Ms. Sweeney.

12. SENIOR JUDGE CERTIFICATION: (Neira Siaperas)

Chief Justice Durrant welcomed Neira Siaperas. Judge Renee Jimenez will retire on December 15, 2022 and has applied to be an Active Senior Judge. As required by UCJA Rule 11-201(1)(C)(ix), the Council was provided with Judge Jimenez's Active Senior Judge application and the most recent JPEC Performance Evaluation. Judge Jimenez does not have any outstanding complaints after a finding of reasonable cause with the Judicial Conduct Commission or the Utah Supreme Court. Judge Jimenez has met all other Active Senior Judge qualifications and requirements found in Rule 11-201.

Chief Justice Durrant thanked Ms. Siaperas.

Motion: Judge Lindsley moved to approve recommending Judge Renee Jimenez to the Supreme Court for active senior judge appointment, as presented. Judge Bazzelle seconded the motion, and it passed unanimously.

13. GREEN PHASE WORKGROUP REPORT: (Ron Gordon)

Chief Justice Durrant welcomed Ron Gordon. The Workgroup submitted their report and recommendations for the ongoing use of virtual meeting technology to conduct court proceedings to the Council for consideration. Mr. Gordon thanked the Workgroup and staff for their dedication to the work in creating this report. The Workgroup focused on identifying how much judicial discretion should be given.

Executive summary

- The use of virtual hearings to conduct court proceedings is accompanied by benefits and drawbacks, which must be identified, monitored, and balanced to best ensure that the courts continue striving to provide the public an open, fair, efficient, and independent system for the advancement of justice.
- A 2022 survey of Utah court users shows an overwhelming preference for the continued use of virtual hearings across court user types and age groups in district, juvenile, and justice courts.
- After careful study, the Workgroup favored an approach that prioritizes judicial discretion in determining whether a hearing will be in-person or virtual and allows court patrons to request to participate in a different manner.

- Recommended best practices for continued use of virtual hearings revolve around adequate notification of which hearings are intended to be conducted virtually, education and technical assistance to overcome technological and user-centric barriers, clear communication regarding decorum expectations, and continuing coordination with patrons, practitioners, the public, and other stakeholders.

Introduction

Judicial officers and court staff have developed proficiency in the logistics of scheduling and conducting virtual hearings, which has revealed benefits and drawbacks related to using virtual meeting technology for court proceedings. While virtual hearings will undoubtedly continue to be an important tool for the Judiciary, the tool's effectiveness varies based on the situation and the parties involved. The goal has been to ascertain how virtual meeting technology can be employed into the future to advance the Judiciary's mission without sacrificing the effectiveness inherent in proceedings held in-person.

Benefits and drawbacks of virtual hearings

Virtual hearings have been critical to the operation of the Judiciary during the pandemic. The use of technology allowed the courts to overcome the all-or-nothing choice between fully restricting access to the courts or exposing patrons, court staff, and judicial officers to a little-understood, highly contagious and deadly disease.

Access to justice

Access to justice has been, is, and will continue to be a primary consideration when assessing court operations, including the use of virtual meeting technology. One of the benefits of virtual hearings has been an increase in access to justice for many people. There are also aspects of virtual hearings that can impede access to justice. These obstacles must be understood and considered to ensure that the Judiciary provides the best opportunities for the public to access court services.

Technology considerations

Instituting virtual hearings in the Utah courts at the onset of the pandemic required the Judiciary to purchase and roll out new technology, train judicial officers and employees, collaborate with system partners, and increase IT team support. A forward-looking and effective virtual hearings strategy will require additional and upgraded hardware and software, continual network monitoring and improvements, and significant time to fully implement. Early in the pandemic, the Utah Courts determined that Webex was the virtual meeting technology platform best suited to the needs of the Judiciary. The Judiciary currently has approximately 1,900 Webex licenses for state and local courts.

The increased use of virtual court hearings and meetings has at times placed a nearly overwhelming load on the Courts' network capabilities and bandwidth. This voluminous data transmission burden has resulted in slow network response times for critical systems to function well. It is anticipated that these challenges will not be fully resolved until an ARPA-funded network upgrade is completed in December 2024. This upgrade is intended to optimize system performance through the creation of discrete network connections to route network traffic for the Courts' internal applications (CORIS, CARE, etc.) separately from external applications

(Webex, Google services, etc.). The Workgroup recommended the Council continue to invest in IT staff necessary to support virtual and hybrid hearings and to provide training to employees, judges, and commissioners.

Court user survey

Earlier this year, the Utah State Bar's Access to Justice Commission, in partnership with the Judicial Council, conducted a limited survey of court users (primarily in the Third District Court) about their experiences with virtual hearings from the fall of 2021 through the spring of 2022. A total of 212 individuals had provided survey responses including 116 parties, 68 lawyers, 22 government agency workers, and 5 friends/guardians of a party. These individuals participated in a variety of criminal and civil hearings in district court, delinquency and child welfare hearings in the juvenile court, and criminal, traffic, and small claims hearings in the justice court. Seventy-five percent of respondents expressed a preference for virtual hearings.

Judicial discretion vs. patron preference

The Workgroup weighed three main considerations: patron preference, consistency, and judicial discretion. The Workgroup recommended the Council approve allowing judges to have discretion to determine whether a hearing will be in-person or virtual. If a court patron requests to participate in a way other than the way identified by the judge and demonstrates good cause, the judge should be required to grant the request. Court rules should be adopted to implement this approach.

Judge Gardner was concerned about the consistency issue with judicial discretion. Judge Pettit explained that if the Council adopts the built-in judicial discretion then judges can have courthouse or bench guidelines that can be more specific.

Mr. Gordon confirmed that questions have been raised about the reasons that the courts hold some hearings virtually while similar hearings are held in-person. Judge Brower worried that if there is no control over how hearings are held then it may end up garnering the attention of legislators.

Considerations for judges – juvenile courts

While the decisions on in-person and virtual hearings should be made based on unique circumstances of each case and each hearing, some juvenile court proceedings are more suitable to conduct virtually while other proceedings are more suitable for an in-person setting. Virtual hearings in the juvenile courts could include detention hearings, expungements, custody of refugee, immigrant status, and child welfare reviews. Whereas, in-person juvenile court hearings could include trials, evidentiary hearings, competency hearings, and shelter hearings. The Workgroup recommended juvenile court judges consider factors when deciding whether to hold a hearing virtually or in-person.

Considerations for judges – district and justice courts

Judicial discretion is paramount when deciding whether to hold an in-person or virtual hearing. Given the unique characteristics of each court, court location, and case, district court judges must have individual discretion to determine which hearing type will best promote the open, fair, and efficient administration of justice in each proceeding. It is also important to

understand the technical limitations that impact virtual hearings. For example, some county jails have limited capacity for virtual hearings and cannot accommodate the number or length of virtual hearings a court may desire to hold. The Workgroup recommended district and justice court judges consider principles of procedural fairness, factors outlined in court rule, and the other factors where relevant.

Judge Farr thought it may be difficult for 80 justice courts located throughout the state to follow district court guidelines, especially since justice courts handle the most amount of cases throughout the state. Many decisions for operating justice courts are made by the local city or county. This direction may harm access to justice. Judge Pettit wondered if the report should add more input from the justice courts.

Considerations for judges – appellate courts

The appellate courts have only one hearing type to consider in evaluating moving into a post-pandemic judicial environment. Oral arguments never have witnesses and very rarely utilize any form of evidentiary exhibits. The Workgroup recommended appellate court judges consider factors when deciding whether to hold a hearing virtually or in-person. The Council recognized that the report would allow for interlocutory appeals. Judge Gardner said people can file an interlocutory appeal regardless of the report. Judge Connors would prefer removing the language in the report on appeals.

Amending court rules

The Workgroup recommended all initial filings by self-represented litigants should be made in-person or via U.S. Mail. If approved, the Council should amend its rules to specifically authorize self-represented litigants to make subsequent filings in a case through email. Notwithstanding this, a patron seeking a civil protective order or civil stalking injunction be allowed to file their initial request via email due to the significant access and safety concerns implicated in this proceeding.

The Workgroup recommended the Supreme Court establish a good cause standard that hearing participants must demonstrate in requesting to appear opposite the decision of the judge. The Supreme Court should define “good cause” and establish an appeal process when a hearing participant believes a judge is not appropriately applying the good cause standard.

Constitutional considerations

Rulemaking bodies should explore the constitutional concerns surrounding the use of in-person and virtual hearings, most importantly whether in-person and virtual hearings are constitutionally equivalent. For example, URCP Rule 26(a)(1) provides that minors have a right “to appear in-person and to defend in-person or by counsel.” URCrP Rule 17.5 identifies certain types of hearings that can be held via contemporaneous transmission, while prohibiting others, and allowing for waiver of the prohibition with mutual agreement of the parties. The Workgroup recommended that the Judiciary’s rulemaking bodies balance the increasing need for opportunities to improve access to justice, while simultaneously ensuring court rules and practices do not violate principles of due process.

Stakeholder input

The Utah Department of Corrections (UDC) expressed hope that the courts would not change policies that would result in them needing to conduct more transports. UDC noted that increasing the number of transports would impact their capacity to handle other work. The Division of Juvenile Justice and Youth Services similarly expressed a hope that detention hearings could be held virtually. They noted that for youth in a community placement in their county, their case managers would plan to request in-person hearings when they felt it was necessary.

The most common feedback from community stakeholders was that options for virtual participation in court proceedings should continue and that court patrons should be able to request the opportunity to participate virtually even if the judicial officer has determined that the proceeding will be in person. Stakeholders explained that even though virtual hearings have some limitations and are not the best option in all circumstances, they have significantly expanded access to justice.

Judge Lindsley operates her court holding virtual hearings on certain days or in-person hearings on other days based on jail personnel's availability, while understanding that the courts cannot control the jails' availability.

Multiple stakeholders expressed appreciation for virtual hearings while also noting a need for additional technical support for virtual hearing participants. Many participants will not have experience with Webex and may experience difficulties accessing a virtual hearing and navigating through Webex. Resources with detailed explanations about how to participate in a virtual hearing and employees or volunteers dedicated to assisting virtual hearing participants would help people overcome difficulties prior to and during their virtual hearing.

Self-represented parties

Judge Farr was concerned for the self-represented parties who may not know to contact the court or understand what is considered a good cause reason. Judge Brower wouldn't oppose a presumption for certain types of hearings in justice courts.

Abuse of discretion standard

Chief Justice Durrant noted that judges' discretion is subject to the abuse of discretion standard, as evidenced by many cases where judges have to make good cause determinations. As he read this report, judges have absolute discretion on how a person should appear. If a person disagreed with a judge's decision on how to appear, the judge would be subjected to the abuse of discretion standard. Chief Justice Durrant thought the Workgroup's direction was the right one.

Definition of good cause

Judge Lindsley said rules' committees could take years to determine what is considered good cause. Chief Justice Durrant agreed that it would be difficult to define what good cause is for all case types. Judge Lindsley recommended striking these sentences "The Supreme Court should establish a "good cause" standard that hearing participants must demonstrate in requesting to appear opposite the decision of the judicial officer. The Supreme Court should charge its various advisory committees with defining the "good cause" standard through rule."

MyCase

Judge Pettit wondered if the initial filings recommendation should be amended to require filings via MyCase rather than allowing filings by email. Mr. Gordon said MyCase should be the default, however, the courts are still out about 18 months to allow for MyCase e-filing. Judge Pettit recommended modifying that section of the report and recommended including time-sensitive documents such as protective orders and evictions.

Policy, Planning, and Technology Committee

The Council decided to have the Workgroup modify the report as discussed then readdress it with the Council. Judge Mortensen asked if this should be adopted and then sent to the Policy, Planning, and Technology Committee for further work. Mr. Gordon confirmed that this is the typical course of action but the rule that needed amending is a Supreme Court rule, not a Council rule. Judge Pettit agreed that this would go to the Supreme Court for their rule amendment consideration.

Future questions

The Workgroup recommended the Judiciary continue to gather and analyze data, including data from court patrons and stakeholders as well as data about virtual and in-person hearings.

Mr. Gordon confirmed that the Council would want the report to eliminate defining good cause, have clarification of filings by email, reword “valid reason”, and clarify appeals. Additionally, page 38 should be changed to “the Supreme Court should consider establishing a rule that allows hearings participants to appear opposite of the judges decision” and striking the rest of that section.

Chief Justice Durrant thanked Mr. Gordon and the members of the Workgroup.

Motion: Judge Pettit moved to:

- Adopt the recommendations of the Green Phase Working Group as revised in this motion.
- Recommend that the Supreme Court consider establishing a rule of procedure that allows hearing participants to request to appear opposite the decision of the judicial officer to hold a hearing in person or virtually.
- Obtain the input of the Board of Justice Court Judges on whether justice courts should be included in the Supreme Court’s procedural rule.
- Request that the Policy, Planning, and Technology Committee draft an amendment to the Code of Judicial Administration Rule 4-503 regarding filings by email by self-represented litigants until the e-filing capability of MyCase is fully functional.
- Not adopt a recommendation to establish a rule that defines “good cause” and the appeal process.

Judge Farr seconded the motion. The motion passed unanimously.

14. DISSOLUTION OF THE ENTERPRISE JUSTICE COURT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Pursuant to Utah Code § 78A-7-123. Dissolution of Justice Courts, Mr. Peters presented the City of Enterprise's intent to dissolve the Enterprise City Justice Court per Resolution 2202-009 adopted by the Enterprise City Council. Enterprise City requested a shortened amount of time to dissolve the court, as required by statute from one year to December 31, 2022. The Enterprise Justice Court is a Class IV Court, which is one of the smallest courts with only 29 cases in the past year. Of the 29 cases, 20 were traffic and 9 were criminal cases. This has been challenging for the court to maintain skills and abilities needed to properly run a justice court. The Washington County Justice Court will absorb the cases. The judge that currently runs the Enterprise Justice Court also works at the Washington County Justice Court.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Farr moved to approve the dissolution of the Enterprise Justice Court, effective December 31, 2022, as presented. Judge Chin seconded the motion, and it passed unanimously.

15. JUSTICE COURT REFORM: (Judge Paul Farr, Jim Peters, Ron Gordon, Michael Drechsel, Wayne Kidd, Kate Bradford, Andrea Brandley, Phil Dean, and Grace Spulak)

Chief Justice Durrant welcomed Judge Paul Farr, Jim Peters, Ron Gordon, Michael Drechsel, Wayne Kidd, Kate Bradford, Andrea Brandley, Phil Dean, and Grace Spulak. Chief Justice Durrant was grateful for Judge Farr and the Workgroups exceptional work on reform.

Background

- 1989 Justice courts were created by statute, prior to that there was the position of the justice of the peace.
- 1996 Circuit courts dissolved and justice court jurisdiction expanded. Some of the work went to the justice courts and some went to the district courts.
- 2007 The Nehring Commission was created to identify comprehensive justice court reforms. The Commission was comprised of more internal and less external participants.
 - Recommendations that were enacted included judicial selection process, salary protections, and as a compromise, a salary range of 50-90%.
 - Recommendations that were not enacted included judges to be state employees, judges' salaries set at 90% of a district court judge (prorated for part-time judges), the elimination of part-time judicial positions, and all judges to have at least a Bachelor's Degree.
- 2016 *Simler v. Chilel*, 379 P.3d 1995 (Utah 2016), which recognized the right to a jury trial in small claims cases. Rules were established to allow a party to remove a case to the district court in order to avail themselves of the right to a jury trial.
- 2018 Supreme Court Advisory Committee on Procedural Reforms for Justice Courts, Chaired by Judge Kate Appleby. Judge Farr and staff were on this committee.
 - "The Utah Supreme Court is interested in exploring procedural reforms for cases initiated in the justice courts. This project is rooted in our ongoing commitment to promoting access to justice. We believe that small claims procedure, in particular, could benefit from streamlining and refinement. And we have convened this

committee for the purpose of advising us on possible ways to implement the reforms that are outlined below.”

- “We are interested in exploring the possibility of amendments to our rules, to controlling legislation, and (if necessary) to the Utah Constitution to pave the way for elimination of the appeal by de novo trial. Instead, we propose a more traditional appeal, but on an expedited path (restricted word limits, perhaps a decision without oral argument, and short opinions possibly lacking precedential authority).”
- “We are unanimous in our support of the points set forth above. We are less certain, however, of the best means for implementing them. And we remain open to pushback on even these central points.”
- 2019 Justice Court Reform Taskforce was created.
 - Met from May 2020 – August 2021.
- 2021 Justice Court Reform Taskforce presented to the Judicial Council and Supreme Court.
 - Core recommendations included eliminating de novo appeals without requiring a constitutional amendment, creating a new division of the district court (magistrate division) where all misdemeanor and small claims cases would be heard on-the-record by fulltime judges who are members of the Utah State Bar, and increasing judicial independence by eliminating conflicts of interest, setting fixed judicial salaries, and standardizing practices.
 - Structural reform and necessary supporting changes included
 - the creation of a division of the district court (magistrate duties assigned to division judges, class A misdemeanors transferred to division judges, and preliminary hearings transferred to division judges);
 - division judges required to be members of the Bar;
 - populate division court with eligible justice court judges. Future vacancies appointed by the State Governor;
 - current justice court judges continue in office;
 - the number of division judges to be established by statute;
 - creation of new criminal court rules;
 - indigent defense services;
 - plea withdrawal expansion;
 - additional appellate court judges and staff;
 - statutes enacted clarifying all courts as part of the state Judiciary;
 - judicial salaries set at a fixed amount;
 - Accounting Model 2 eliminated;
 - geographic restrictions for judicial applicants being removed; and
 - AOC assuming greater role in administration of justice courts.

Small claims recommendations

- Small claims cases heard on the record.
- Small claims separation between private and commercial.
- Definition of private vs. commercial claims.
- Removal of third-party debt collection restrictions in small claims.
- Filing fee for commercial claims increased and system for representation created.

- ODR expanded to all small claims cases.
- New judicial rules created for civil/small claims cases.
- Pro tem judges discontinued and ODR facilitator system created.
- Webex hearings made available for parties, volunteers, and attorneys.

Simplified infraction process

- Creation of a simplified process for infractions, including ODR process, possibly using the Hawaii model.

Post-taskforce report recommendation

- Transfer of eviction cases to division.

Judge Farr mentioned that groups from other states as well as the NCSC and the PEW Foundation that have expressed interest in these recommendations.

In August 2021 the Council approved the recommendations of the Justice Court Reform Taskforce, recognizing that the proposals made could evolve over time with further information from stakeholders and authorized the formation of the Justice Court Reform Workgroup to take the next steps toward exploring the implementation of the recommendations.

Mr. Drechsel, Judge Farr, and Mr. Peters met with the Judiciary Interim Committee, which is comprised of the Chairs and members of each house. Mr. Drechsel felt they saw merit in the principles and considerations, while grappling with current issues, including the amount of self-represented parties and funding. Mr. Drechsel wasn't aware at this time of any proposed justice court reform bills. He didn't think justice court reform would be affected by the proposed chancery business bill. Judge Farr mentioned that this wasn't the first time legislators heard about reform efforts because there were representatives from many groups on the taskforce.

NCSC focus groups

Grace Spulak stated that the NCSC conducted 6 focus groups between August – September, 2022, including the Board of Justice Court Judges, justice court clerks, Board of District Court Judges, prosecutors, defense attorneys, and local government officials. During the focus groups participants were asked to share reasons they supported the proposal, concerns about the proposal, and any other suggestions to improve justice courts.

Four judges indicated that they believed the proposed reforms would lead to better access to justice. The groups supported the elimination of de novo appeals and building a body of caselaw around misdemeanors and small claims cases. Participants expressed concerns about judge and staff retention, salaries, and transferring benefits. Community input included concerns about losing the sense of community connection with local justice courts moving to division courts, remote appearances to avoid traveling great distances, and that local courts can reflect the sensibilities of the community.

The groups believed moving class B and C misdemeanors to the division courts would create better indigent defense and allow for access to specialty courts, such as mental health courts.

NCSC survey

The NCSC sent a survey to those involved in the focus groups, plus the AOC Directors, TCEs, and other stakeholders. Of the 282 responses, 270 responses indicated that they were familiar with the Taskforce's work.

Participants	Count
Judges	82
Prosecutors	45
Court staff	114
Defense attorneys	15
County and municipality stakeholders	15
Other	11
Total	282

Chief Justice Durrant thanked Ms. Spulak and those at the NCSC who participated on this effort.

Kem C. Gardner Policy Institute

Mr. Dean explained that the Institute gathered data from FY 2018 – FY 2020 from 13 justice courts including 5 Class I Courts, 3 Class II Courts, 4 Class III Courts, and 1 Class IV Court. Entities do not always follow the uniform chart of accounts so some of the data had to be interpreted. Ms. Bradford noted that they recognized that 2020 was a pandemic year but for purposes of this presentation, they included the data from that year.

- Categorization of data
- 1) Total building expenses
 - Maintenance
 - Rent/building fee
 - Utilities
 - Other
 - 2) Total employee expenses
 - Attorneys
 - Bailiff/security
 - Judge
 - Other
 - 3) Equipment and supplies
 - 4) IT (computer/phone)
 - 5) Juror/witness/interpreter
 - 6) Travel/transportation/training
 - 7) Total other
 - General
 - State fees paid
 - Unknown

Employee expenses comprise approximately 90% of total expenses listed in the categories above. Depending on the court location, of the employee expenses, the majority of

expenses were staff, followed by attorneys, then followed by bailiff/staff. Building expenses were difficult to determine because some justice courts are using shared rooms; some justice courts only provided rough estimates of their building expenses; and building leases or rental fees.

	% of Revenue Retained	% of Cases Retained
Davis	46%	68%
Orem	42%	71%
Salt Lake City	45%	52%
Sandy	66%	82%
West Valley	34%	54%
Carbon County	41%	68%
Millard	56%	89%
North Salt Lake	43%	70%
Herriman	65%	78%
Parowan	46%	75%
Saratoga Springs	34%	66%
Wellsville	55%	85%
Garland	41%	61%

Chief Justice Durrant thanked Ms. Bradford, Ms. Brandley, and Mr. Dean.

Mr. Drechsel reminded the Council that it is common to see both state courts and justice courts operate in the red because courts are an essential government service. Judge Chin said many cities and counties approach judges on the revenue their courts bring in through ordering and collecting fines. Judge Brower thought that many larger jurisdictions understand the losses taken with justice courts but accept the losses because they recognize they are providing an essential service. However, more rural courts sometimes only hope to break-even. Judge Chin didn't believe the majority of justice courts break-even fiscally. Mr. Drechsel said if the reform efforts were adopted, the state courts budget may appear further in the red, resulting in the Council's need to identify if there are any sources of revenue that could soften the loss.

The Workgroup provided the following assessment of the state fiscal impact, while accepting that these amounts could increase.

Fiscal impacts – expenses

- Personnel
 - Magistrate judges – \$19 million
 - Judicial assistants – \$26.4 million
 - Court of Appeals – \$2.3 million
 - AOC – \$2.2 million
- Facilities
 - Set up/FF&E (one-time) – \$5.1 million
 - Rents, not including 3% escalation – \$3.8 million
 - Court security (bailiffs only) – \$3.6 million
- Other
 - IT infrastructure (one-time) – \$3.6 million

- IT infrastructure – \$400,000
- Education – \$768,000

Fiscal impacts – offsets

- New state revenue that would follow cases moving from justice courts to division courts – \$22 million.
- Reallocation through attrition of 17 retiring district court judges – \$3.6 million and 34 judicial assistants – \$3.4 million. Mr. Peters explained that they are anticipating future events, such as retirements, because the reform will not be implemented all at once.
- Other possible facilities savings – up to \$1.6 million and possible revenue distribution adjustments (state/local splits) – up to \$18 million.

Mr. Gordon pointed out that if all of these changes were implemented, the justice courts' revenue would decrease. Cities and counties are using revenue from those cases for other services. Judge Lindsley said realistically post-pandemic, the revenue may be lower because judges may be diverting away from fines to community service.

Options for moving forward

- Do nothing
 - *Pros* –
 - No fiscal impact
 - Easy to implement
 - *Cons* –
 - There are current concerns that need to be addressed
 - Spent significant amount of time and money working to identify and develop solutions to those concerns
 - Other stakeholders, including Legislature, also have an interest in certain reforms
- Seek to fully implement the taskforce's recommendations
 - *Pros* –
 - Recommendations could be used as a gold standard
 - Best way to achieve the principles highlighted in the report
 - *Cons* –
 - Would result in significant personnel and facilities challenges
 - May carry a fiscal note somewhere between \$20 and \$70 million per year
- Eliminate justice courts
 - *Pros* –
 - Goal around the country is to consolidate courts
 - Would accomplish most of the goals in the recommendations
 - *Cons* –
 - Would arguably require a constitutional amendment
 - Would result in even more significant personnel and facilities challenges, and an even larger fiscal burden as the entire justice court caseload would be transferred to the district court
 - May exacerbate access to justice issues
- Make justice courts “courts of record”

- *Pros* –
 - Would resolve the de novo appeal issues
 - Would have smaller fiscal impacts
- *Cons* –
 - Would leave some of the recommendations related to judicial independence and other issues unaddressed
 - As a court of record, judges would be required to be members of the State Bar, serve fulltime, and be appointed by the Governor, as required by the constitution; this would effectively eliminate small, rural justice courts.
 - Would require constitutional amendments to multiple sections, including those dealing with the judicial appointment process.
- A gradual, phase approach
 - *Vision* –
 - Encourage legislation, rules, and other changes that get the courts closer to the core concepts of 1) cases heard on the record, 2) the elimination of conflicts of interest that increase judicial independence, and 3) accomplishing other recommendations
 - *Pros* –
 - Stay true to the recommendations
 - Accomplishes some of the goals immediately
 - Establishes a framework for future implementation
 - Is more fiscally responsible
 - *Cons* –
 - Leaves many of the recommendations undone – at least for now – including the primary goal of eliminating de novo appeals
 - Creates uncertainty for the future

Judge Farr was concerned about how a mandate that all justice court judges be members of the Bar would affect the small part-time courts. Judge Pettit asked why not change the statute to make justice courts “courts of record” where the hearings are already recorded and cases could be appealed to the appellate courts. There are currently 78 justice court judges with 20 of them being non-lawyers. More than half of the justice courts operate less than fulltime. Judge Pettit felt the majority of the justice courts could be changed to courts of record then create a different path for the courts with non-lawyers. Judge Farr was concerned that not all justice courts are recorded through FTR and smaller courts do not have the funding for a better recording system. Less than 2% of cases are appealed.

Phase approach 1 of 4 support legislation enacting those recommendations that have no state fiscal impacts/avoid significant structural changes.

- Enact statute clarifying that all courts are part of the Judiciary.
- Set fixed judicial salaries, which would have local financial impacts.
- Eliminate Accounting Model 2.
- Eliminate geographic restrictions for justice court judge applicants.
- Require all new justice court judges to have law degrees, allowing current justice court judges without law degrees to be grandfathered in.

Judge Farr noted some justice courts are not set up to accept electronic fine payments. If a clerk is unavailable, there are city or county personnel who accept fine payments from court patrons or assist judges.

Phase approach 2 of 4 support legislation enacting the legal framework through which future structural changes could more easily be implemented.

- Create a magistrate judicial position, appointed, fulltime, Bar membership, with duties set forth in statute, including presiding over class B and C misdemeanors and small claims, magistrate functions, other duties as assigned by the district court, appointed by the Governor, and salary set at 90% of a district court judge.
- Concurrent jurisdiction of class B and C misdemeanors and small claims between justice and district courts, with primary jurisdiction in justice courts and jurisdiction transferring upon certain events such as dissolution of a justice court, legislative transfer of certain case types or order of a district court judge where a magistrate judge has been implemented.
- Funding of a magistrate judge in districts with greatest current judicial need.

This phase sets up the possibility for future changes.

Phase approach 3 of 4 support legislation relating to the transfer of certain small claims cases.

- Transferred case would be heard by a magistrate on the record.
- Could apply to certain case types such as personal injury, insurance or expert witnesses and at either a party's request or automatically if certain conditions exist.
- Coordinate with URSCP Rule 4A Defendant's Removal to District Court, which provides for removal for the right to a jury trial.

Phase approach 4 of 4 recommendations to work towards in the future.

- Magistrate duties assigned to magistrate judges.
- Class A misdemeanors heard by magistrate judges.
- Preliminary hearings heard by magistrate judges.
- Differentiate between private and commercial small claims cases.
- Bring third party debt collection cases under the small claims umbrella, both to be heard by magistrate judges.
- Filing fee for commercial small claims and debt collection cases to be used to provide LPP representation.
- Expand ODR to all small claims and debt collection cases.
- Discontinue the use of pro tem judges for small claims and create ODR facilitator system.
- By rule, make remote hearings available to parties, volunteers, attorneys, etc.
- Creation of a simplified process for infractions.
- Eviction cases to be heard by magistrate judges.

Justice courts have continued to decline from 120 to 80 over the past 10 years. Judge Gardner noted that the district courts that are in need of a judge would have plenty of work for magistrates to do. Judge Farr wondered where in a district court a magistrate could be housed

and thought the Legislature may be more willing to fund a less expensive request rather than fund a new judge. He also questioned if the Legislature would be interested in utilizing court space more effectively. Mr. Drechsel said the Legislature has been interested in space utilization in the post-COVID environment.

Mr. Drechsel said if provisions to the Code could be amended with enough clarity, the Council could easily transition justice court reform efforts over time. Mr. Peters thought the Council could create future dates for changes. Mr. Gordon said the Council and AOC staff need to keep the commitment to continue pursuing these efforts for a number of years.

Mr. Gordon and Mr. Drechsel felt the courts could begin legislative discussions for the implementation of phase 1 and both believed the Council should communicate their research and work with the Legislature. Mr. Drechsel recommended the Council communicate to the Legislature that they've investigated, assessed the five options, selected option 5, and have recognized the reality of the lack of time with the session closely approaching to draft something. Mr. Gordon suggested the written report incorporate the information from the NCSC and Kem C. Gardner Institute.

Chief Justice Durrant thanked Judge Farr, Mr. Peters, Mr. Gordon, and Mr. Drechsel.

Motion: Judge Lindsley moved to have Mr. Drechsel, with the assistance of Judge Farr and Mr. Peters create a list of talking points that link to the reports that the Council has received to show their intent to work through phases to implement the recommendations regarding reforming the justice courts in the state of Utah.

Mr. Drechsel confirmed the incremental approach would fall in line with option 5. Judge Lindsley confirmed and stated that it would include how the Council would be moving through phase 5, which could be further revised as needed by the Council in the future. Judge Lindsley confirmed Mr. Drechsel's interpretation of her motion. Judge Pettit was uncomfortable with this because she has not had sufficient time to digest this. Judge Lindsley clarified that she was referring to option 5 with pieces that may change in the future based on the court system and how other things are working but working towards those changes from the initial report of justice court reform. And, maybe less concrete as to where Judge Pettit is concerned. Judge Chin suggested the report could indicate the Council's support for some type of reform with future ideas still in development.

Judge Pettit felt this was a new concept that hadn't been talked about before. Judge Lindsley accepted Judge Chin's amendment. Judge Bazzelle asked if it would be helpful to add that the Council was planning on legislation in 2024. Mr. Drechsel thought this was a good idea. Judge Lindsley added this to her motion and preferred to have a more concrete path forward.

Judge Evershed seconded the motion, and it passed unanimously.

16. EXECUTIVE SESSION

An executive session was not held.

17. CONSENT CALENDAR ITEMS
None

18. ADJOURN
The meeting adjourned.

Draft

Tab 2

**JUDICIAL COUNCIL'S
MANAGEMENT COMMITTEE**

Minutes

November 8, 2022

**Meeting Held Through Webex
and In Person**

**Matheson Courthouse
Council Room
450 S. State St.
Salt Lake City, Utah 84111**

12:00 p.m. – 12:43 p.m.

Chief Justice Matthew B. Durrant, Presiding

Committee Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Paul Farr
Hon. Elizabeth Lindsley
Hon. Kara Pettit

Excused:

Michael Drechsel
Jim Peters

Guests:

AOC Staff:

Ron Gordon
Neira Siaperas
Brody Arishita
Shane Bahr
Tracy Chorn
Wayne Kidd
Nick Stiles
Sonia Sweeney
Janet Thorpe
Keisa Williams
Jeni Wood

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Chief Justice Durrant welcomed new members Judge Elizabeth Lindsley and Judge Kara Pettit.

Motion: Judge Paul Farr moved to approve the October 11, 2022 Management Committee minutes, as presented. Judge David Mortensen seconded the motion, and it passed unanimously.

2. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Ron Gordon shared that the Director of Data and Research position will be housed in a new AOC department.

3. JUSTICE COURT REFORM: (Judge Paul Farr, Jim Peters, and Ron Gordon)

Judge Farr said Senator Kirk Cullimore was considering running a bill at the upcoming legislative general session. Michael Drechsel is preparing a summary of the phases for Senator Cullimore. Chief Justice Durrant attended Senator Cullimore's presentation at the Utah State Bar's Fall Forum. Judge Farr thought Senator Cullimore was receptive to the plan that was presented to the Council, including eliminating geographic restrictions and requiring set salaries.

4. 2022 ICSA SUMMARY FOR SELECTED JUSTICE COURTS: (Janet Thorpe and Wayne Kidd)

Wayne Kidd noted the 2022 internal control self-assessments (ICSA) for selected justice courts were conducted in accordance with the International Standards for the Professional Practice of Internal Auditing. Diane Williams and Janet Thorpe, served as lead auditors for the assessments. The purpose of an ICSA is to assess the adequacy of a court's risk management and control processes. A self-assessment provides a court an opportunity to address recommendations to mitigate risks and improve controls. The ICSA engagement process helps a justice court accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The Board of Justice Court Judges approved two business models.

- Business Model 1 – courts receipt and deposit court funds, and perform case recordkeeping duties. This is the model the majority of justice courts follow.
- Business Model 2 – a local government entity receipts and deposits court-collected funds, and the court performs case record keeping duties.

Janet Thorpe explained that the primary focus of an ICSA engagement was to assess critical control processes and compliance with policies and procedures including: separation of duties, safeguarding of assets and security of court records, payment procedures, change funds, mail payments, daily closeout procedures, and trust accounts. The ICSAs help ensure financial and case information is accurate and reliable, and court assets are safeguarded.

Mr. Gordon provided an explanation of what the Management Committee's role is with audits. Mr. Kidd said the Internal Audit Department will report the progress of how the recommendations are being implemented to the Committee.

5. SALT LAKE DISTRICT COURT AUDIT REPORT: (Tracy Chorn and Wayne Kidd)

The Salt Lake District Court audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing. Tracy Chorn, Internal Auditor, served as the lead auditor for this review. The court staffing includes 92 fulltime judicial support employees. The internal audit process helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. This report furnishes management with information concerning the audit areas reviewed.

The primary focus of the audit was to review high-risk areas including: Separation of Duties, Safeguarding of Assets, Daily Closeout and Balancing Procedures, Mail Payment

Process, Deposits, Monitoring the Trust funds, Accuracy of the Accounts Receivable, and Witness and Juror Payments. The audit objectives were for the period of January 1, 2021, through December 31, 2021 and were evaluated for compliance with state laws, judicial rules, and accounting policies and procedures applicable to the district courts.

Judge Pettit asked about Rule 4-403 in regards to the signature stamp authorization document. Mr. Kidd met with the General Counsel to review the audit before it was brought before the Committee to discuss this. Shane Bahr said that the Clerks of Court are working to determine if a rule amendment is needed on a statewide level. Keisa Williams received the Clerks proposal that will be addressed with the Policy, Planning, and Technology Committee at their next meeting.

Judge Pettit asked if local collection policies or Accounting Manual policies need to be changed. Mr. Kidd confirmed these are local collection policies, not statewide.

Judge Pettit wanted to ensure the correct metric was being used for the clerks for witnesses.

Motion: Judge Farr moved to approve the Salt Lake District Court audit, as presented. Judge Mortensen seconded the motion, and it passed unanimously.

6. COMMITTEE APPOINTMENT: (Jeni Wood)

The Model Utah Jury Instructions Criminal Committee recommended the appointment of Brian Williams, Freyja Johnson, and Dustin Parmley, and the reappointment of Judge Brendan McCullagh.

Motion: Judge Mortensen moved to approve the appointments of Brian Williams, Freyja Johnson, and Dustin Parmley, and the reappointment of Judge Brendan McCullagh to the MUJI-Criminal Committee, as presented and to add this to the Council consent calendar. Judge Pettit seconded the motion, and it passed unanimously.

7. EMAIL FILING INTERIM POLICY: (Ron Gordon)

Mr. Gordon reminded the Committee that the Council requested the Committee continue working through the process for self-represented parties electronic filing until MyCase is available (12-18 months). Additionally, the Policy, Planning, and Technology Committee will consider a rule amendment. Until the rule is amended, the courts may need to establish an interim policy.

The Committee believed having a consistent policy statewide was important as many lawyers file in various courts recognizing that most services are being handled through electronic means. Mr. Gordon said some districts are happy to accept initial and subsequent filings through email in part because some litigants must travel a great distance to a courthouse. Judge Pettit thought that it was unfair for litigants to go to copy centers for paper and copies in some districts but not in other districts. Mr. Bahr explained that in-person filings allowed the clerk to immediately talk through the filing with a litigant, whereas, incorrect email filings would require

multiple emails that may not end up with the same clerk. Judge Mortensen said if the courts are ultimately aiming for allowing email filings, then starting this now may be beneficial.

Brody Arishita mentioned that MyCase will include a judicial assistant que that will help with guided filings, noting that OCAP creates one large package of documents that clerical must separate, whereas, MyCase will alleviate that inefficiency. Judge Mortensen asked about filings emailed on the day of the deadline that are the rejected. Judge Pettit wondered how those issues are currently being handled. Mr. Arishita believed it is rare that clerical rejects documents. Regardless of when the clerk gets to it, the filing date is when it was sent in. MyCase stores the reason why a document was rejected.

The Committee agreed that Mr. Gordon should prepare an Order outlining the interim policy for the Chief Justice to sign .

Motion: Judge Pettit moved to approve an interim policy where the courts allowed emailed filings, including initial filings until MyCase is available and not at the discretion of a court. Judge Mortensen seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the Judicial Council agenda.

Motion: Judge Mortensen moved to approve the Judicial Council agenda, as presented. Judge Farr seconded the motion, and it passed unanimously.

9. OLD BUSINESS/NEW BUSINESS

Mr. Gordon thanked the Committee and the Council for allowing so many AOC directors and staff to present to them. The presenters felt this was a great experience and appreciated being allowed to come before the Committee and Council.

10. EXECUTIVE SESSION

An executive session was not held.

11. ADJOURN

The meeting adjourned.

Agenda

UTAH JUDICIAL COUNCIL POLICY, PLANNING and TECHNOLOGY COMMITTEE MEETING MINUTES

Webex video conferencing
September 2, 2022: 12 pm -2 pm

MEMBERS:

PRESENT

EXCUSED

GUESTS:

Judge Derek Pullan, <i>Chair</i>	•	
Judge Augustus Chin	•	
Judge Samuel Chiara	•	
Judge David Connors	•	

Paul Barron
Stacy Haacke
Karl Sweeney
Dustin Treanor
Todd Eaton
Judge Laura Scott
Nick Stiles
Keri Sargent

STAFF:

Keisa Williams
Brody Arishita
Minhvan Brimhall

(1) Welcome and approval of minutes:

Judge Pullan welcomed committee members and guests. The committee considered the minutes from the August 5, 2022 meeting. With no changes, Judge Connors moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- CJA 4-206. Exhibits.
- CJA 9-107. Justice court technology, security, and training account.

The public comment period on the above rules has closed. No comments were received on rule 9-107. Rule 4-206 received one comment in favor of the proposed amendments. No additional changes are recommended.

With no further discussion, Judge Connors moved to send CJA 4-206 and CJA 9-107 to the Judicial Council for final approval with a November 1, 2022 effective date. Judge Chiara seconded the motion. The motion passed unanimously.

(3) CJA 3-412. Procurement of goods and services.

The Small Purchase limit (when multiple quotes are not required) has been increased to \$5,000 per item and up to \$10,000 for an entire purchase. The Budget & Fiscal Management Committee approved the increase to mimic policies that the Executive Branch and State Purchasing have already implemented. Corresponding amendments have been made to the Accounting Manual. Ron Gordon is the chief procurement officer for the AOC. The Committee noted that the "Judicial Operations" budget no longer exists. Mr. Sweeney will delete paragraph (20) on page 3 of the attached section of the Accounting Manual, 07-00.00.

With no further discussion or concerns, Judge Connors moved to send CJA 3-412 to the Judicial Council for expedited approval with an effective date of September 13, 2023, followed by a 45-day public comment period. Judge Chiara seconded the motion. The motion passed unanimously.

(4) CJA 6-501. Reporting requirements for guardians and conservators.

Rule 6-501 was sent out for a 45-day public comment period and those comments were discussed at PP&T's August meeting. At its August 19th meeting, the Judicial Council adopted the proposed amendments and approved them as final with a November 1, 2022 effective date. After the Judicial Council meeting, Ron Gordon received an email from a local attorney, Michael Jensen, with the following comments:

“...bring to the attention of the Judicial Council, two errors in the amended CJA 6-501 Rule (i.e., the rule governing the reporting requirements for guardians and conservators) that is to become effective November 1st of this year. Specifically, Rules 6-501(5) and 6-501(9) are inconsistent with each other. Under 6-501(5), “Report Forms”, there is an exception for a “corporate fiduciary”. Under 6-501(9), such exception was mistakenly omitted. Also, under Rule 6-501(6), Line 124 [now line 91], there is a reference to “Paragraph (4)”, but I believe it should be “Paragraph (5)”.

The reference in line 91 was a typo and has been corrected. The Probate Subcommittee discussed the issues raised in sections (5) and (9). The Subcommittee recommends not exempting corporate fiduciaries from using court approved forms for annual status reports, inventory, and accounting, and therefore would recommend no change to the language found in paragraph (9).

The purpose of this recommendation was to comply with Utah Code provisions and streamline the ability of the court to review a report regardless of whether it was from a corporate fiduciary, a self-represented person, or a non-professional. Additionally, this would hold everyone to the same standard. In making these recommendations for the referenced language in Rule 6-501, the Probate Subcommittee refers to Utah Code 75-5-417(2)(d) and (3)(a). Subsection (2)(d) states the Judicial Council shall approve the forms for the accounting reports described in the statutory subsections (a) and (b), including the accounting and annual report. Forms for the annual reports, inventory, and accounting can be found on the courts website – here. Furthermore, paragraphs (7), (8), and (9) of Rule 6-501 all have the same language in the second sentence of (A) regarding use of substantially the same form as those approved by the Judicial Council, for annual reports, inventory, and accountings. Finally, U.C. 75-5-417(3) (a) indicates corporate fiduciaries are not required to fully petition the court but shall submit their internal report annually to the court.

This language was incorporated into paragraph 5 of Rule 6-501, but there is no further exception for corporate fiduciaries found in the statute. Rather, a corporate fiduciary may attach their own accounting or other documents as exhibits to the court form which is required of all filers.

The committee discussed a potential inconsistency in the language of sections 5 and 9. Section 5 allows for a fiduciary to file its own internal report or accounting, without being required to use a Judicial Council approved form. Section 9 indicates that the report is required to be the same form approved by the Judicial Council. The committee is unclear as to whether the comments provided by Mr. Jensen are asking for a change to the rule or asking for consistency in the rule. The committee sent the rule back to the Subcommittee for further discussion regarding the intent of the comments and asked for additional recommendations.

This item is tabled for further discussion at the next meeting.

(5) CJA 1-201. Membership – Election

CJA 1-302. Membership – Officers - Secretariat

There is a conflict in the rules regarding Council members' ability to serve simultaneously on boards of judges and rule 1-201 needs to be updated to reflect the membership exception for the Standing Committee on Judicial

Fairness and Accountability. There is a difference in practice and preference amongst the various boards of judges. Each respective board has its own rule and preference regarding membership. If the appellate court is exempt from 1-201(7) ("of a trial court") and Council members may be non-voting board members, each of the board rules are in compliance with 1-201(7) and do not need to be amended. The proposed amendments align rule 1-302(2) with rule 1-201(7).

With no further discussion or concerns, Judge Connors moved to send CJA 1-201 and 1-302 to the Judicial Council for approval for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

(6) Records requests – associated with case:

- **CJA 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case**
- **CJA 4-202.08. Fees for records, information, and services**

The proposed amendments are intended to resolve two reoccurring issues associated with records access requests and to adopt recent legislative amendments to 63G-2-203(5)(c) in H.B. 96. Pursuant to 78A-2-301(1)(bb), "The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under [GRAMA]."

Rule 4-202.04:

The proposed amendment clarifies that a motion is required to be filed with the court when access to non-public records in a case are requested by a person who is not authorized, pursuant to rule 4-202.03, to receive those records. Language to the rule has been modified from "may" to "must" in paragraph (2)(B).

The committee agreed that a motion is required for access to non-public records by any individual not authorized to receive those records. The committee recommended adding the word "public" to (2)(A) to distinguish between public and non-public records.

Rule 4-202.08:

Consistent with H.B. 96 and 63G-2-203(5)(c), the proposed amendment would allow the court to charge requesters for the first 15 minutes of personnel time if the person has submitted a separate request within the 10-day period immediately prior to the date of the new request, provided the person is not a Utah media representative. Indigent individuals would be allowed 1 free copy of each record, after which they would be required to pay the standard rates. Exceptions can be made by court order or by the State Court Administrator. Court clerks are able to note in CORIS and CARE when requests are received, what documents are requested, and when the request was fulfilled. Court clerks have at times been inundated with repeated requests from the same individual for the same record. The proposed amendment provides a balance for fulfilling those requests. In paragraph (9)(A)(ii), "impecunious" has been changed to "indigent."

The committee recommended modifying paragraph (9)(B) to clarify that the "The State Court Administrator may waive the one free copy limit under this rule for good cause." Appeals of the State Court Administrator's decision will be reviewed by the Management Committee as outlined in CJA rule 4-202.07.

With no further discussion or concerns, Judge Connors moved to send CJA 4-202.04 and 4-202.08 to the Judicial Council for approval for a 45-day public comment period. Judge Chiara seconded the motion. The motion passed unanimously.

(7) Technology report/proposals:

CJA 1-204. Executive Committees

The proposed amendments create court-level core teams and subcommittees of PP&T to assist the Committee in accomplishing its new technology responsibilities. The creation of a technology advisory committee would be to recommend changes on how the court operates, problem solves, or brings on new applications or software. The subcommittee will ensure that proposals are well vetted prior to review and discussion by the PP&T Committee. The IT group already has structures in place at the appellate, district, juvenile, and justice court levels to review, discuss, and propose IT level projects. The proposed amendments will streamline the review process for the existing court teams.

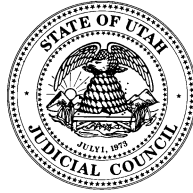
With no further discussion, Judge Connors moved to send CJA 1-204 to the Judicial Council for approval for a 45-day public comment period. Judge Chiara seconded the motion. The motion passed unanimously.

Old Business/New Business:

This is Judge Pullan's final meeting with the committee as his term on the Judicial Council has concluded. The committee thanked Judge Pullan for his dedication to work of the committee and his commitment to serve.

Adjourn: With no further items for discussion, the meeting adjourned. The next meeting will be held on October 7, 2022 at 12 PM via Webex video conferencing.

Tab 3



Administrative Office of the Courts

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

November 9, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Randy Dryer and Nathanael Player, on behalf of the Forms Committee

RE: Forms Committee Annual Report

The Judicial Council's Standing Committee on Court Forms is charged, under CJA 3-117, with reviewing the need for court forms and creating forms written in plain language. Court data shows that the overwhelming number of people facing litigation in district courts represent themselves. Without legally accurate and comprehensible forms, these self-represented litigants are largely unable to access the courts.

The Committee receives numerous requests for forms and prioritizes its work as follows:

1. forms that must be amended or created because of changes in the law.
2. forms that contain a mistake.
3. forms that fall within one of the LPP practice areas (Code of Judicial Administration Rule 14-802(c)).
4. forms submitted or requested by one of the boards of judges.
5. other forms, decided on a case-by-case basis. Requests are evaluated on criteria including:
 - access to justice principles,
 - the mission of the courts (to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law),
 - the number of people who are or would be impacted by a form, and
 - fixing a flaw in a court process.

Since the our last report to the Council in November 2021, the Committee has:

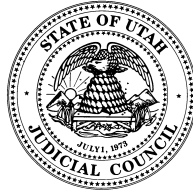
**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

- identified the need for a forms attorney to support the time-intensive work of the Committee - we are very appreciative of the strong support from the Council for this request;
- adjusted committee membership to add a practitioner, the LPP administrator, and a district court judge from beyond the Wasatch Front – we find that these additions have strengthened our ability to critically review forms;
- continued to meet remotely every other month;
- maintained current forms consistent with the state of the law;
- in the past year, the Forms Committee worked on 105 forms, including:
 - revising and improving 17 existing forms;
 - updating 35 existing forms based on legislative updates;
 - drafting 21 new forms based on existing law;
 - drafting 32 new forms based on new legislation or court rules.
- on top of these revisions, the Forms Committee worked on over 300 forms to update them to comply the heading changes required under revised URCP 10.

The members of the Committee, all of whom have other major responsibilities both within and outside the court system, continue to be dedicated and diligent members of the Committee and deserve a big vote of thanks for their volunteer service.

Tab 4

Agenda



Administrative Office of the Courts

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

November 10, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Neira Siaperas, Deputy State Court Administrator

RE: Senior Judge Appointment

Attached is Judge Roger Livingston's application for an Active Senior Judge. Judge Livingston retired from the bench in 2003 and served as an Active Senior Judge from November 2010 to December 2016. He does not have any outstanding complaints after a finding of reasonable cause with the Judicial Conduct Commission or the Utah Supreme Court.

Qualifications for Active Senior Judges are found in [CJA Rule 11-201\(1\)](#). One of the requirements is "to obtain results on the most recent judicial performance evaluation prior to termination of service." Judicial performance evaluations are not available for Judge Livingston because the Judicial Performance Evaluation Commission (JPEC) started conducting judicial evaluations in 2012. Performance evaluations and attorney surveys from the National Center for State Courts (NCSC) are also unavailable because Judge Livingston has not served on the bench in the past six years.

Another required qualification for an Active Senior Judge is to "maintain familiarity with current statutes, case law, court case management systems, such as CORIS for district courts and CARE for juvenile courts, Workspace and remote hearing technology." A judge must also satisfy education requirements set forth in [CJA Rule 3-403\(3\)\(A\)\(i\)](#).

Judge Livingston does not meet the requirement of completing 30 hours of education annually and his level of familiarity with court applications and remote hearing technology is unknown. To ensure that Judge Livingston meets qualifications prior to accepting assignments as an Active Senior Judge, the Judicial Council may consider appointing Judge Livingston as an Active Senior Judge subject to the judge completing 30 hours of education within 30 days; participating in the Webex/CORIS district training; and attending the New Judge Orientation in January 2023. The Education Department and the Third District Court leadership team have agreed to assist Judge Livingston with completing the required hours through LMS courses and in-person training. Attending the New Judge Orientation would provide the judge with additional training on procedural fairness, judicial ethics, technology, and other topics.

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

Active Senior Judge Application

Active senior judge status allows you to hear and determine cases and perform weddings. The declarations on this form reflect the qualifications established by Code of Judicial Administration Rules 11-201 and 11-203. Please review the requirements in the rule before completing this form.

Your application will be considered first by the Judicial Council and then by the Supreme Court. You will receive a copy of the signed Supreme Court Order and an Oath of Office form if the Supreme Court certifies you.

PLANNED LEAVES OF ABSENCE: A judge applying for active senior judge status must elect inactive status during any planned leaves of absence if it could interfere with the judge's ability to fully comply with annual education requirements or the judge's ability to meet the judge's minimum senior judge service days.

NAME: Please provide your name below.

Roger A. Livingston

RETIREMENT DATE: Please provide your retirement date below.

MM DD YYYY

02 / 28 / 2003

AGE 75: Please provide the year you will or did turn 75. Please do NOT provide your actual birth date.

2024

QUALIFICATIONS FOR OFFICE: I hereby apply for the office of ACTIVE Senior Judge and declare as follows (check ALL that apply):

*

- ☒ 1) I was retained in the last election in which I stood for election.
- ☒ 2) I voluntarily resigned from judicial office, retired, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- ☒ 3) I demonstrate appropriate ability and character.
- ☒ 4) I am admitted to the practice of law in Utah, but I do not practice law.
- ☒ 5) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- ☒ 6) I am a current resident of Utah and available to take cases.
- ☒ 7) I am physically and mentally able to perform the duties of judicial office.
- ☒ 8) I maintain familiarity with current statutes, rules, case law, court case management systems, such as CORIS for district courts, and CARE for juvenile courts, Workspace and remote hearing technology.
- ☒ 9) I will satisfy the education requirements of an active judge.
- ☒ 10) I will attend the Annual Judicial Conference (appellate/district/juvenile) or Annual Justice Court Conference (justice).
- ☒ 11) I will accept assignments at least two days per calendar year, subject to being called.
- ☒ 12) I will conform to the Code of Judicial Conduct, the Code of Judicial Administration, and rules of the Supreme Court.
- ☒ 13) I obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been recommended for retention regardless of whether the evaluation was conducted for self-improvement or certification;
- ☒ 14) I continue to meet the requirements for judicial retention as those requirements are determined by the Judicial Council.
- ☒ 15) I will undergo a performance evaluation as required following an initial term as an active senior judge.
- ☒ 16) I will take and subscribe an Oath of Office.
- ☒ 17) I was not removed from office or involuntarily retired on grounds other than disability.
- ☒ 18) I was not suspended during my final term of office or final six years in office, whichever is greater.

- ☒ 19) I did not resign as a result of negotiations with the Judicial Conduct Commission or while a complaint against me was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.
- ☒ 20) I have not been subject to any order of discipline for conduct as a senior judge.
- ☒ 21) I understand that if I have had any orders of discipline against me by the Supreme Court, I must provide those to the Judicial Council.
- ☒ 22) I am not aware of a complaint against me pending before the Supreme Court or Judicial Conduct Commission, after a finding of reasonable cause.
- ☒ 23) I declare there are no criminal charges, not including infractions, pending against me.
- ☐ 24) Justice Court judges only - I have been in office for at least five years.
- ☐ 25) Justice Court judges only - I comply with the restrictions on secondary employment provided by the Utah Code.
- ☐ Other:

IF APPLICABLE, please explain why you DID NOT check any of QUALIFICATIONS the boxes above. Please include the qualification number.

.....

JUDICIAL PERFORMANCE EVALUATION: I further declare as follows (check ALL apply): *

- ☐ A) Appellate judges only - I have circulated not more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year.
- ☐ B) Appellate judges only - I have achieved a final average time to circulation of a principal opinion of not more than 120 days after submission.
- ☒ C) District and Juvenile judges only - I have held no more than three cases per calendar year under advisement more than two months after submission.
- ☒ D) District and Juvenile judges only - I have held no cases under advisement more than 180 days after submission.
- ☒ E) I am in compliance with the Code of Judicial Conduct.

IF APPLICABLE, please explain why you DID NOT check any of the JUDICIAL PERFORMANCE EVALUATION boxes above. Please include the standard letter(s).

IF APPLYING FOR REAPPOINTMENT, please list the approximate dates that you served on the bench.

Served as an Active Senior Judge from January 1, 2014 to December 31, 2016. Also served from November 2, 2010 to December 31

YEAR 1: My education hours for the current fiscal year (July 1-June 30) are: *

Fewer than 30 ▼

YEAR 2: My education hours for the last fiscal year (July 1-June 30) were: *

Fewer than 30 ▼

YEAR 3: My education hours 2 years ago (fiscal year July 1-June 30) were: *

Fewer than 30 ▼

IF APPLICABLE, please explain why you HAVE NOT completed 30 EDUCATION HOURS during any of the 3 fiscal years listed above. Please include any planned courses for the current year.

I did not have a need for an active bar license

PLANNED LEAVES OF ABSENCE: Please check the box to indicate acknowledgement. *



I understand that I must request a transfer to inactive status prior to any planned leaves of absence that could interfere with my ability to fully comply with annual education or minimum senior judge service work requirements.

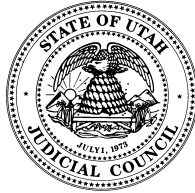
ELECTRONIC SIGNATURE: Please sign below in the following format: /s/ NAME

/s/Roger A. Livingston

This form was created inside of Utah State Courts.

Google Forms

Tab 5



Administrative Office of the Courts

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

November 13, 2022

Ronald Gordon, Jr.
State Court Administrator
Neira Saiperas
Deputy State Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rule for Final Approval

Following a 45-day comment period, the Policy, Planning, and Technology Committee recommends that the following rules be approved as final with an *effective date of January 1, 2023*

- **CJA 1-204. Executive committees**
Creates court-level core teams and subcommittees of Policy, Planning, and Technology to assist the Committee in accomplishing its new technology responsibilities.
 - The court received one public comment (attached). The Committee revised the rule to clarify that Core Teams should include representatives from each judicial district, where applicable. Teams are not required to include representatives from all of the named positions and can include more than one person in any given position.
- **CJA 4-202.08. Fees for records, information, and services**
Allows the court to charge requesters for the first 15 minutes of personnel time. "Impecunious" is changed to "indigent." Indigent requesters are limited to one free copy of each record, after which they would be required to pay the standard rates. Exceptions can be made by the State Court Administrator.
 - The court received three public comments (attached). The Committee amended the rule to remove references to outdated technology.

Following a 45-day comment period, the Policy, Planning, and Technology Committee recommends that the following rules be approved as final with an *effective date of May 1, 2023*.

- **Appendix B. Justice Court Standards for Recertification**
Code of Judicial Administration Rule 9-108 requires that justice court standards be reviewed and updated every two years. The proposed amendments are intended to streamline the appendix, provide clarity, and incorporate recent statutory amendments.
 - No public comments

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

- **CJA 1-201. Judicial Council Membership - Election**
- **CJA 1-302. Board of Judges – Membership – Officers – Secretariat**
 Clarifies that Council members may serve as non-voting members of a trial court board and continues to allow an exception for the appellate courts. Reflects the Judicial Council's membership exception for the Standing Committee on Judicial Fairness and Accountability set forth in rule 1-205(1)(C).
 - No public comments
- **CJA 4-202.02. Records classification**
 Currently, the rules are unclear as to what happens to a record previously designated as sealed if it is included in the overall record on appeal. The proposed amendment would allow sealed records to remain sealed even if included in the record on appeal. Records may be unsealed by court order.
 - The court received two public comments (attached). After careful consideration, the Committee recommends no additional amendments.
- **CJA 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case**
 Clarifies that requesters denied access to non-public court records associated with a case that they are not authorized to access under rule 4-202.03 must file a motion or petition to access the record.
 - The court received one public comment (attached). The Committee adopted the clarifying amendments proposed by the commenter (#1 - #4), but declined to adopt the recommendation regarding service (#5).

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

PUBLIC COMMENTS

Rule 1-204

Meredith Mannebach

September 27, 2022 at 3:43 pm

Regarding CJA01-204 Executive Committees.

District Administration team suggests changing line 53-64 to delete naming positions and rather note having representation from each district and a representation from justice court for core membership. The current philosophy for the core team is that it is more important to have representation from each district rather than certain positions represented. The positions naturally do get represented in who each district elects to the committee. But we want to make sure we have a voice from across the state.

Line 53-58 is our core admin team make up, so wondering if we want to distinguish between core and core admin teams?

Line 81-82 Should we specify that the two members from core to serve on the advisory committee, are two members from the core admin teams?

Line 106 Do we want to specify that there is a District and a Juvenile COC? We specify that for the TCE, we should for COC as well.

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

To establish executive committees of the Council.

To identify the responsibility and authority of the executive committees.

To identify the membership and composition of the executive committees.

To establish procedures for executive committee meetings.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) **Executive Committees.** The following executive committees of the Council are hereby established:

(1)(a) the Management Committee;

(1)(b) the Policy, Planning, and Technology Committee;

(1)(c) the Liaison Committee; and

(1)(d) the Budget and Fiscal Management Committee.

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

(3) **Policy, Planning, and Technology Committee.** The Policy, Planning, and Technology Committee shall recommend to the Council periodic and long term planning efforts as necessary for the efficient administration of justice, and shall research and make recommendations regarding any matter referred by the Council. The Committee shall recommend to the Council new and amended rules for the Code of Judicial Administration, new and amended policies for the Human Resource Policies and Procedures Manual, pursuant to Rule 3-402, and new or amended technology policies and priorities.

(3)(A) **Technology Core Teams.** Each court level shall establish a Technology Core Team to review and prioritize requests impacting technology associated with court level

applications. Core Teams should include representatives from each judicial district, where applicable, and may consist of a combination of the following positions:

(3)(A)(i) Appellate Court Core Team:

(3)(A)(i)(a) Appellate Court Administrator;

(3)(A)(i)(b) Clerk of Court;

(3)(A)(i)(c) appellate court judge;

(3)(A)(i)(d) Appellate Court Coordinator; and

(3)(A)(i)(e) IT staff.

(3)(A)(ii) District/Justice Court Core Team:

(3)(A)(ii)(a) District Court Administrator or designee(s);

(3)(A)(ii)(b) Justice Court Administrator or designee(s);

(3)(A)(ii)(c) Clerk of Court;

(3)(A)(ii)(d) Trial Court Executive;

(3)(A)(ii)(e) district court judge;

(3)(A)(ii)(f) justice court judge;

(3)(A)(ii)(g) Team Manager;

(3)(A)(ii)(h) Case Manager;

(3)(A)(ii)(i) Judicial Assistant;

(3)(A)(ii)(j) Training Coordinator;

(3)(A)(ii)(k) IT staff; and

(3)(A)(ii)(l) local justice court administrator.

(3)(A)(iii) Juvenile Court Core Team:

(3)(A)(iii)(a) Juvenile Court Administrator or designee(s);

(3)(A)(iii)(b) Clerk of Court;

(3)(A)(iii)(c) Trial Court Executive;

(3)(A)(iii)(d) Chief Probation Officer;

(3)(A)(iii)(e) Probation Supervisor;

(3)(A)(iii)(f) Probation Officer;

(3)(A)(iii)(g) Team Manager;

(3)(A)(iii)(h) Case Manager;

- (3)(A)(iii)(i) Judicial Assistant;
- (3)(A)(iii)(j) Training Coordinator;
- (3)(A)(iii)(k) juvenile court judge; and
- (3)(A)(iii)(l) IT staff.

(3)(B) Technology Prioritization Subcommittee. A Technology Prioritization Subcommittee is hereby established. Members shall be designated by each Core Team and shall consist of no more than two members from each Team. A current or former member of the Policy, Planning, and Technology Committee shall be a non-voting member. Each Core Team may submit technology requests associated with court level applications to the Technology Prioritization Subcommittee. The prioritization subcommittee shall come to an agreement on the percentage of work allotted for each court level. The percentage relates to development staff compensated by general funds. Technology requests from Core Teams should fall within the work allotted to that court level for that year, unless the work requested is required by legislative or rule changes. The prioritization subcommittee may review and consider exceptions to this standard. The prioritization subcommittee will make recommendations to the Policy, Planning, and Technology Committee.

(3)(C) Technology Advisory Subcommittee. A Technology Advisory Subcommittee is hereby established. The advisory subcommittee shall be available to the Chief Information Officer, Core Teams, Technology Prioritization Subcommittee, and the Policy, Planning, and Technology Committee to provide feedback and recommendations on statewide technology services, including but not limited to, device standards, email, and bandwidth. The advisory subcommittee shall consist of:

- (3)(C)(i) one district court judge;
- (3)(C)(ii) one juvenile court judge;
- (3)(C)(iii) one appellate court judge;
- (3)(C)(iv) one justice court judge;
- (3)(C)(v) one district court Trial Court Executive
- (3)(C)(vi) one juvenile court Trial Court Executive;
- (3)(C)(vii) one district court Clerk of Court;
- (3)(C)(viii) one juvenile court Clerk of Court;
- (3)(C)(ix) one local justice court administrator;
- (3)(C)(x) each court level administrator or their designee(s);
- (3)(C)(xi) one Chief Probation Officer;
- (3)(C)(xii) the Chief Information Officer or designee;

(3)(C)(xiii) the Court Security Director; and

(3)(C)(xiv) one current or former member of the Policy, Planning and Technology Committee.

(4) **Liaison Committee.** The Liaison Committee shall recommend to the Council legislation to be sponsored by the Council. The committee shall review legislation affecting the authority, jurisdiction, organization or administration of the judiciary. When the exigencies of the legislative process preclude full discussion of the issues by the Council, the Committee may endorse or oppose the legislation, take no position or offer amendments on behalf of the Council.

(5) **Budget and Fiscal Management Committee.** The Budget and Fiscal Management Committee shall review court budget proposals, recommend fiscal priorities and the allocation of funds, and make recommendations to the Council regarding budget management and budget development in accordance with Rule 3-406.

(6) **Members.** Members of the executive committees must be members of the Council. Each executive committee shall consist of at least three members appointed by the Council to serve at its pleasure. The members of the Policy, Planning, and Technology Committee, the Budget and Fiscal Management Committee, and the Liaison Committee shall elect their respective chairs on a schedule deemed appropriate by each Committee. Chairs must be members of the Council.

(7) **Meetings and Judicial Council Reports.** Each committee shall meet as often as necessary to perform its responsibilities, but a minimum of four times per year. Each committee shall report to the Council as necessary.

(8) **Staff.** The Administrative Office shall provide staff support to the executive committees.

Effective: ~~May 23~~ January 1, 2023

PUBLIC COMMENTS

Rule 4-202.08

Daniel Meza

September 22, 2022 at 12:47 pm

Regarding CJA04-0202.08. Fees for records, information, and services.

Should we consider removing references to microfiche, audio and video tapes?

I also understand why the fee for fax is \$5.00 for 10 pages or less and then there is a .50 per page for additional pages, but should the cost be the same for documents being emailed? Perhaps there should be a difference in how we charge for those.

Keri Sargent

September 26, 2022 at 9:58 am

Regarding CJA04-0202.08. Fees for records, information, and services.

Feedback from clerical staff indicate that requests for audio and video “tapes” may be outdated, and filling these requests usually results in a digital file being sent to the requestor. Also, video is not widely available, and moving forward we may want to consider if restrictions should be placed on releasing video that is available due to Webex.

Suzette Deans

September 29, 2022 at 8:48 am

I have just a minor comment regarding terminology and amount of audio tape copy. The rule has some outdated terminology related to media type. On (3)(C) and (3)(D) the word tape being used which is an outdated term as the courts don’t use tape anymore as a media choice. It makes sense to change it to audio record/CD and video record/DVD. Changing that terminology better aligns with (3)(G). I would also suggest changing the amount of (3)(C) from \$10 to \$15 that will lessen the confusion in the field as to what amount should be charged for a copy off court record.

Getting that changed would also allow us to update the CORIS miscellaneous fees screen in CORIS and update court’s accounting manual to match.

(3) Copies

(3)(C) Change to audio record/CD \$15

(3) (D) Change to video record/DVD \$15

Rule 4-202.08. Fees for records, information, and services.**Intent:**

To establish uniform fees for requests for records, information, and services.

Applicability:

This rule applies to all courts of record and not of record and to the Administrative Office of the Courts. This rule does not apply to the Self Help Center.

Statement of the Rule:

(1) **Fees payable.** Fees are payable to the court or office that provides the record, information, or service at the time the record, information, or service is provided. The initial and monthly subscription fee for public online services is due in advance. The connect-time fee is due upon receipt of an invoice. If a public online services account is more than 60 days overdue, the subscription may be terminated. If a subscription is terminated for nonpayment, the subscription will be reinstated only upon payment of past due amounts and a reconnect fee equal to the subscription fee.

(2) **Use of fees.** Fees received are credited to the court or office providing the record, information, or service in the account from which expenditures were made. Fees for public online services are credited to the Administrative Office of the Courts to improve data quality control, information services, and information technology.

(3) **Copies.** Copies are made of court records only. The term "copies" includes the original production. Fees for copies are based on the number of record sources to be copied or the means by which copies are delivered and are as follows:

(3)(A) paper except as provided in (H): \$.25 per sheet;

~~(3)(B) microfiche: \$1.00 per card;~~

~~(3)(C) audio tape: \$10.00 per tape;~~

~~(3)(D) video tape: \$15.00 per tape;~~

(3)(~~B~~E) electronic storage medium other than of court hearings: \$15.00 per unit;

(3)(~~C~~F) electronic copy of court reporter stenographic text: \$25.00 for each one-half day of testimony or part thereof;

(3)(~~D~~G) electronic copy of audio record or video record of court proceeding: \$15.00 for each one-half day of testimony or part thereof; and

(3)(~~EH~~) pre-printed forms and associated information: an amount for each packet established by the state court administrator.

(4)(~~A~~) **Mailing.** The fee for mailing is the actual cost. The fee for mailing shall include necessary transmittal between courts or offices for which a public or private carrier is used.

(~~54~~)(~~B~~) **Fax or e-mail.** The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for additional pages is \$.50 per page. Records available on Xchange will not be faxed or e-mailed.

(~~65~~) **Personnel time.**

(6)(A) Personnel time to copy the record of a court proceeding is included in the copy fee. For other matters, there is no fee for the first 15 minutes of personnel time, unless the person who submits the request:

(6)(A)(i) is not a Utah media representative; and

(6)(A)(ii) has submitted a separate records request within the 10-day period immediately prior to the date of the request to which the court or office is responding.

(6)(B) The fee for time beyond the first 15 minutes is charged in 15 minute increments for any part thereof. The fee for personnel time is charged at the following rates for the least expensive group capable of providing the record, information, or service:

(~~65~~)(~~BA~~)(i) clerical assistant: \$15.00 per hour;

(~~65~~)(B)(ii) technician: \$22.00 per hour;

(~~65~~)(~~BC~~)(iii) senior clerical: \$21.00 per hour

(~~65~~)(~~BD~~)(iv) programmer/analyst: \$32.00 per hour;

(~~65~~)(~~BE~~)(v) manager: \$37.00 per hour; and

(~~65~~)(~~BF~~)(vi) consultant: actual cost as billed by the consultant.

(~~76~~) **Public online services.**

(~~76~~)(A) The fee to subscribe to Xchange shall be as follows:

(~~76~~)(A)(i) a set-up fee of \$25.00;

(76)(A)(ii) a subscription fee of \$40.00 per month for any portion of a calendar month; and

(76)(A)(iii) \$.15 for each search over 500 during a billing cycle. A search is counted each time the search button is clicked.

(76)(B) When non-subscription access becomes available, the fee to access public online services without subscribing shall be a transaction fee of \$5.00, which will allow up to 10 searches during a session.

(76)(C) The fee to access a document shall be \$.50 per document.

(87) No interference. Records, information, and services shall be provided at a time and in a manner that does not interfere with the regular business of the courts. The Administrative Office of the Courts may disconnect a user of public online services whose use interferes with computer performance or access by other users.

(98) Waiver of fees.

(98)(A) Subject to (9)(B), fFees established by this rule, other than fees for public online services, shall be waived for:

(98)(A)(i) any government entity of Utah or its political subdivisions if the fee is minimal;

(98)(A)(ii) any person who is the subject of the record and who is impecuniousindigent; and

(98)(A)(iii) a student engaged in research for an academic purpose.

(9)(B) Individuals who qualify for a fee waiver under (9)(A)(ii) are entitled to one free copy of the record requested. The State Court Administrator may waive the one free copy limit under this rule for good cause.

(98)(CB) Fees for public online services shall be waived for:

(98)(CB)(i) up to 10,000 searches per year for a news organization that gathers information for the primary purpose of disseminating news to the public and that requests a record to obtain information for a story or report for publication or broadcast to the general public;

(98)(CB)(ii) any government entity of Utah or its political subdivisions;

(98)(CB)(iii) the Utah State Bar;

130

|131 (~~98~~)(~~CB~~)(iv) public defenders for searches performed in connection with their
132 duties as public defenders; and

133

|134 (~~98~~)(~~CB~~)(v) any person or organization who the XChange administrator
135 determines offers significant legal services to a substantial portion of the public at
136 no charge.

137

|138 *Effective: ~~November~~ January 1, 20~~23~~02*

Appendix B. Justice Court Standards for Recertification

Instructions to applicant for recertification

As part of the application process, each entity should carefully review all requirements for the operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of ~~its Justice the~~ Court, the governing body of each entity must request a written opinion from its attorney advising the entity of all requirements for the operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting recertification. The resolution must also affirm that the entity is willing to meet all requirements for the operation of the ~~Justice~~ Court during the period of certification. A copy of the attorney's opinion and the resolution must accompany the application.

A representative of the entity may appear before the ~~Committee~~ Board of Justice Court Judges to present the application and may present any additional information which the applicant desires to present to the ~~Board~~ Committee. In the event that additional information is deemed necessary, the ~~Committee-Board~~ may request such additional information from the applicant.

Certification will ~~certify-authorize~~ the court to process all cases which come within the jurisdiction of the ~~Justice e~~ Court including criminal, civil and small claims cases pursuant to Section 78A-7-106 of the Utah Code.

(1) Statutory Requirements. Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

(1)(A) All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Section 78A-7-213).

(1)(B) Each court shall be ~~opened~~ and judicial business shall be transacted every day as provided by law (Section 78A-7-213), although the judge is not required to be present during all hours that the court is open.

(1)(C) The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (Section 78A-7-213).

(1)(D) The judge and the clerk of the court shall attend the court at regularly scheduled times (Section 78A-7-213).

(1)(E) The entity ~~creating-operating~~ the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (Section 78A-7-206 and Section 78A-7-207~~44~~).

(1)(F) The entity ~~creating-operating~~ a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial

education and training (Section 78A-7-205).

(1)(G) The entity ~~creating~~ operating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A-7-~~103214~~).

(1)(H) The entity ~~creating~~ operating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-~~103209~~).

(1)(I) The entity ~~creating~~ operating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-~~103209~~).

(1)(J) The entity ~~creating~~ operating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-~~103209~~).

(1)(K) Witnesses and jury fees as required by law shall be paid by the entity which creates the Court (~~Section 10-7-76 and 17-50-319~~).

(1)(L) Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Section ~~78A-7-120 and 78A-7-121-and-Section 78A-7-119~~).

(1)(M) Every entity ~~creating~~ operating a court shall pay the judge of that court a fixed compensation within the range provided by statute (Section 78A-7-206).

(1)(N) Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).

(1)(O) The entity ~~creating~~ operating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (Section 78A-7-~~103214~~).

(1)(P) All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

~~(1)(Q) An audio recording system shall maintain the verbatim record of all court proceedings. Section 78A-7-103.~~

~~(1)(Q)(i) For Class I and Class II justice courts, the system must:~~

~~(1)(Q)(i)(a) be a stand-alone unit that records and audibly plays back the recording;~~

~~(1)(Q)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.~~

~~(1)(Q)(i)(c) have at least four recording channels;~~

~~(1)(Q)(i)(d) have a one-step "on" and "off" recording function;~~

~~(1)(Q)(i)(e) have conference monitoring of recorded audio;~~

~~(1)(Q)(i)(f) have external record archiving from the unit with local access;~~

~~(1)(Q)(i)(g) be capable of being integrated with the courts public address system; and (1)(Q)(ii) For Class III and Class IV justice courts, the system must, at a minimum:~~

~~(1)(Q)(ii)(a) be a stand-alone unit that records and audibly plays back the recording;~~

~~(1)(Q)(ii)(b) index, back-up and archive the recording and enable the record to be retrieved; and~~

~~(1)(Q)(ii)(c) have at least two recording channels.~~

~~(1)(Q)(iii) The Board of Justice Court Judges may create a list of products that meet these criteria.~~

(2) Judicial Council Minimum Requirements. In addition to those requirements which are directly imposed by statute, ~~Section 78A-7-103 directs~~ the Judicial Council has established additional to promulgate minimum requirements for the creation and certification of Justice Courts, as follows. Pursuant to statute, ~~the Judicial Council has adopted the following minimum requirements:~~

(2)(A) ~~That the Court be opened~~ A clerk shall be available for at least one hour each day that the court is required to be open- and during court hearings, as required by the judges as provided by law (Section 78A-7-213). These hours shall be posted on the court's website.

(2)(B) ~~That the judge~~ shall be available to ~~attend court and~~ conduct court business as needed, performing all duties required and exercising ultimate responsibility for the administration of justice as an independent branch of government.

(2)(C) All court hearings shall be conducted in a designated courtroom, including remote transmission, as permitted by the Judicial Council, or in another location authorized by the Presiding Judge.

(2)(~~DC~~) ~~That~~ the minimum furnishings for a courtroom shall include: a desk and chair for the judge (on a ~~six-inch~~ riser at least six inches above the well), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public, as well as a- ~~(A suggested courtroom configuration is attached).~~

149 ~~(2)(D) A judicial robe, a gavel, current fine schedules, a copy of the Code of Judicial~~
150 ~~Administration~~, and necessary forms and supplies.

151
152 (2)(E) Office space for the judge and clerk shall be appropriate (under certain
153 circumstances this space may be shared, but if shared, the judge and clerk must have
154 priority to use the space whenever needed). The office space shall include a desk for
155 the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a
156 telephone for the judge and a telephone for the clerk, appropriate office supplies to
157 conduct court business, a cash register or secured cash box for each clerk performing
158 cashiering duties, a ~~typewriter or computer with~~ word processing ~~software~~, and
159 access to a scanner and copy machine.

160
161 ~~(2)(F) A clerk must be present during the time the court is open each day and during~~
162 ~~court sessions, as required by the judge.~~

163
164 (2)(F) The court shall provide interpreters as required by Rule 3-306.04 of the Code of
165 Judicial Administration.

166
167 (2)(G) The entity ~~must~~ shall have at least one peace officer (which may be
168 contracted).

169
170 (2)(H) A court security plan ~~must~~ shall be submitted ~~and approved consistent with~~
171 ~~C.J.A. as required by~~ Rule 3-414 of the Code of Judicial Administration.

172
173 (2)(I) Each court ~~must~~ shall have at least one computer with access to the internet,
174 and appropriate software and security/encryption technology to allow for electronic
175 reporting and access to Driver License Division and the Bureau of Criminal
176 Identification, as defined by the reporting and retrieval standards promulgated by the
177 Department of Public Safety.

178
179 (2)(J) Each court shall report required case disposition information to DLD, BCI and the
180 Administrative Office of the Courts electronically, as described in ~~number 9-~~
181 Section (2)(I) above.

182
183 (2)(K) Clerks' education hours shall be reported to the AOC on an annual basis.

184
185 (2)(L) The appointment of the clerk(s) assigned to serve the court shall be subject to
186 the judge's approval, who may participate in the interview and personnel evaluation
187 process for the clerk(s) at his or her discretion.

188
189 (2)(M) Court staff shall be certified as contemplated by Rule 3-303 of the Code of
190 Judicial Administration.

191
192 (2)(N) Any interlocal agreement relating to court operations, as amended to date, shall
193 be provided to the Justice Court Administrator.

194
195 (2)(O) The court shall accept credit and debit cards through a system that integrates
196 with CORIS.

197

198 (2)(P) The court shall have access to UCJIS.

199
200 (2)(Q) An audio recording system shall maintain a digital recording of all court
201 proceedings (Section 78A-7-103).

202
203 (2)(Q)(i) For Class I and Class II justice courts, the system must:

204
205 (2)(Q)(i)(a) be a stand-alone unit that records and audibly plays back the
206 recording;

207
208 (2)(Q)(i)(b) index, back-up and archive the recording and enable the
209 record to be retrieved.

210
211 (2)(Q)(i)(c) have at least four recording channels;

212
213 (2)(Q)(i)(d) have a one-step "on" and "off" recording function;

214
215 (2)(Q)(i)(e) have conference monitoring of recorded audio;

216
217 (2)(Q)(i)(f) have external record archiving from the unit with local access;

218
219 (2)(Q)(i)(g) be capable of being integrated with the court's public address
220 system; and

221
222 (2)(Q)(ii) For Class III and Class IV justice courts, the system must, at a
223 minimum:

224
225 (2)(Q)(ii)(a) be a stand-alone unit that records and audibly plays back
226 the recording;

227
228 (2)(Q)(ii)(b) index, back-up and archive the recording and enable the
229 record to be retrieved; and

230
231 (2)(Q)(ii)(c) have at least two recording channels.

232
233 (2)(Q)(iii) The Board of Justice Court Judges may create a list of products that
234 meet these criteria.

235
236
237 **(3) Classification of Courts Based on Case Filings.** In establishing minimum
238 requirements, the Judicial Council has determined that Justice Courts with higher case
239 filings require greater support services. To accommodate the great differences in judicial
240 activity between Justice Courts within the state, the Council has divided courts into four
241 classes based upon the average monthly cases filed in that court. Minimum standards have
242 been set for each classification.

243
244 **(3)(A) Class IV Courts.** Courts which have an average of less than 61 cases filed
245 each month are classified as Class IV Courts. The minimum requirements for a Class
246 IV Court ~~are stated above. (These requirements are also attached as Class IV-~~

~~minimum requirements). These requirements~~ include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

(3)(B) **Class III Courts.** Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week ~~(see attached Class III minimum requirements)~~, and court must be scheduled at least twice per month every other week.

(3)(C) **Class II Courts.** Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours ~~(see attached Class II minimum requirements)~~, the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided ~~(see attached Class II minimum requirements)~~, and the courtroom, judge's chamber and clerk's office must be in the same building.

(3)(D) **Class I Courts.** Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three full-time clerks, at least one of whom is available it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

(4) Waivers. The State Legislature has provided that any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement which has not been specifically imposed by the Legislature (i.e. requirements ~~(1)(A) -- (1)(Q)~~ above, ~~which have been adopted by the Judicial Council pursuant to Section 78A-7-103~~). Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified and, the fact that a waiver has been previously granted, will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions. In order to adequately function, it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas;

and in such circumstances a waiver may be requested.

(5) Extensions. The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

(6) Judge Certificate. Applications for existing courts for recertification shall be accompanied by a certificate of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met during the prior year. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

(7) Justice Court Standards Committee. Upon submission of an application, the Board of Justice Court Judges Standards Committee will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If the Committee Board intends to recommend against certification, it shall specify the minimum requirements which have not been met. The entity may then present additional information to the Committee Board, request an extension, or request a waiver. After making an appropriate investigation based upon any additional information or request made by the entity, the Committee Board will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. If the recommendation is against recertification, or against waiver, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the Committee's Board's recommendations.

If you have any questions concerning this application, please contact James Peters, Justice Court Administrator, by calling counsel to the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, telephone: (801) 578-3824 or emailing jamesp@utcourts.gov.

Effective: ~~May 18~~ May 1, 2023

1 **Rule 1-201. Judicial Council Membership - Election.**

2
3 **Intent:**

4 To establish the manner of election of Council members as authorized by statute.

5
6 To establish the procedure for filling a vacancy on the Council as authorized by statute.

7
8 **Applicability:**

9 This rule shall apply to all elected members of the Council. This rule shall not apply to the Chief
10 Justice of the Supreme Court.

11
12 This rule shall apply to the Boards of Judges and the Board of Commissioners of the Utah State
13 Bar.

14
15 As used in this rule, unless the context indicates otherwise, "Board" includes the Boards of
16 Judges and the Board of Commissioners of the Utah State Bar.

17
18 **Statement of the Rule:**

19 (1) The composition of the Council, the term of office of elected Council members, and the
20 electorate of elected Council members shall be as prescribed by law.

21
22 **(2) Term.** The term of office of all elected Council members shall begin with the Council meeting
23 immediately following the annual judicial conference. No person shall serve on the Judicial
24 Council for more than two consecutive three-year terms plus the remainder of any unexpired
25 portion of a term.

26
27 **(2) Election.** Election of judicial members of the Council shall take place during the annual
28 judicial conference at the business meeting of each respective court. Election of the
29 representative of the Utah State Bar shall take place at a regularly scheduled meeting of the
30 Board of Commissioners.

31
32 **(3) Vacancies**

33
34 (3)(A) **Judges.** If a vacancy exists for a judicial member of the Council who represents a
35 trial court, the Board for the court represented by that seat shall appoint a judge to serve
36 on the Council until the next judicial conference. At such conference, the judges shall
37 elect a member to the Council to serve for the unexpired portion of the original term. If a
38 judicial member of the Council who represents an appellate court is unable to complete
39 a term of office, the members of that court shall appoint a judge to serve on the Council
40 until the expiration of the vacated term.

41
42 (3)(B) **Bar representative.** If the representative of the Utah State Bar is unable to
43 complete a term of office, the Board of Commissioners shall elect a member or ex officio

member of the Board of Commissioners to serve for the unexpired portion of the original term.

~~(3)(C) No person shall serve on the Judicial Council for more than two consecutive three-year terms plus the remainder of any unexpired portion of a term.~~

(4) **Board nomination procedures.** The Boards shall develop procedures for the nomination and election of Council members and shall certify to the Council the names of the members elected. The Boards shall give due regard to geographic representation, security of the election, timely publication of Council vacancies or expired terms, and ease of administration.

(5) **Meeting attendance.** When a judicial member of the Council is unable to attend a Council meeting, that member may designate a judge from the same level of court to attend the Council meeting and observe the proceedings. When the representative of the Utah State Bar is unable to attend a Council meeting, that member may designate a member or ex officio member of the Board of Commissioners to attend the Council meeting and observe the proceedings. The designee shall be provided with a copy of the Council agenda and other meeting materials, and may attend the open and closed sessions of the meeting. The designee may participate in the general discussion of agenda items but may not make motions or vote on Council issues.

(6) **Expenses.** Council members or their designated substitutes may be reimbursed for actual and necessary expenses incurred in the execution of their duties as Council members.

(7) **Board membership.** Council members ~~shall not be eligible to~~may not serve as voting members of a Board of Judges of a trial court or ~~to~~ serve as members of the standing committees of the Council, except for the Standing Committee on Judicial Fairness and Accountability. The representative of the Utah State Bar may vote at meetings of the Board of Commissioners if permitted to vote under rules governing the conduct of the Board of Commissioners.

Effective: ~~June 22~~May 1, 20230

Rule 1-302. Board of Judges Membership - Officers - Secretariat.

Intent:

To delegate the authority for the election of members and leaders of the various Boards to the Boards themselves or to the judges of the respective courts.

To minimize the costs of organization and administration of the Boards by coordinating the election of members of all Boards.

Applicability:

This rule shall apply to all Boards of Judges, except the Board of Senior Judges.

Statement of the Rule:

(1) **Term – Election.** The judges of the respective courts shall determine an appropriate term of office for the members of their Board. Election to the Board of a court of record shall take place at the annual judicial conference. Election to the Board of Justice Court Judges shall take place at the annual spring training conference. After an election or upon any change in membership, each Board shall certify to the Council the names of its members.

(2) **Membership.** Judicial Council members may not serve as voting members of a Board of Judges of a trial court. ~~A member of a Board may also serve as a member of the Council.~~

(3) **Chair – Officers.** Each Board shall establish the position of chair of the Board and other positions of leadership as the Board deems appropriate. Each Board shall establish the term and manner of election to such offices. Each Board shall certify to the Council the names of the chair and other officers of the Board.

(4) **Secretariat.** The Administrative Office shall serve as secretariat to the Boards.

(5) **Expenses.** Members of the Boards may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as members.

Effective: November May 1, 19982023

PUBLIC COMMENTS

Rule 4-202.02

Rule 4-202.04

Douglas Thompson

August 23, 2022 at 3:12 pm

Re: Rule 4-0202.02

As for the ambiguity in the current rule, the proposed amendment makes sense. It is better for everyone, and especially the appellate clerks, to know the status of the records and how to handle them.

My concern is that this proposal is not accompanied by a proposed amendment to the factors in the rule allowing the “unseal[ing]” of records alluded to in the description (“Records may be unsealed by court order.”). My presumption is that the reference about unsealing is to Rule 4-202.04(3)(A) where “a person with an interest in the record may file a petition to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record.” (If there is another source of authority for courts to unseal records, I apologize). The rule goes on to say that in considering whether to allow access to a record the court may consider any relevant factor including the interests described in Rule 4-202, which include

- (1)(A) to obtain information concerning the conduct of the public’s business;
- (1)(B) to educate the public about the workings of government and the decisions being made on the public’s behalf;
- (1)(C) to contribute to informed debate;
- (1)(D) to hold public officers and employees accountable;
- (1)(E) to increase public confidence;
- (1)(F) to give notice of important claims, rights and obligations; and
- (1)(G) to provide material for independent research on improving government policy.
- (2)(A) to protect personal privacy;
- (2)(B) to protect personal and public safety;
- (2)(C) to protect a property interest that would be lost or devalued if opened to public view;
- (2)(D) to promote the rehabilitation of offenders, especially youthful offenders; and

(2)(E) to protect non-parties participating in the court process, such as victims, witnesses, and jurors.

In theory Rule 4-202.04 allows the parties in an appeal where portions of the record are sealed to file a petition to reclassify the records from sealed to some other classification (i.e. private) in order to allow the parties to access the records for the purposes of appeal. That makes sense. The problem is that in practice the rule doesn't give much help in determining when an appellate court should come to a different conclusion about the correct classification for the record than the lower court did. But in many cases this scenario will arise where the original sealing, and the content of the sealed records themselves, will be the subject matter of the appeal. The appellate process, including the heavy burden of persuasion placed on appellants, is its own justification for reconsideration of the sealing order. In other words, if the purpose of the appeal is to challenge whether the records should have been sealed in the first place, access to the contents of the records and the ability to reference their contents in the briefing and argument to the appellate court should itself be specifically enumerated as a factor to be considered in the petition gain access. The appellate courts' policy should be to favor disclosure of the records to the parties on appeal, with whatever safeguards are appropriate, in order to facilitate the adversarial appellate process. Otherwise only the judges will be allowed to access the sealed records "when the circumstances warrant" forcing the appellate court to take the burden of persuasion from the litigants who are denied access to the record.

William Hains

October 7, 2022 at 8:57 am

The proposed amendment to Rule 4-202.02 adds critical clarity. Sometimes the subject of a sealed record is not even a party before the court and may not realize if the status of their records changed by virtue of the case moving to an appellate court. Their interests are best protected by requiring sealed portions of the record to remain sealed when the record is transferred to an appellate court, unless and until someone establishes a right to access the sealed records.

As Mr. Thompson suggests, Rule 4-202.04 appears to be the appropriate rule to establish access to a sealed record. That rule should be amended to require a movant to provide notice to parties to the litigation and require the court to provide notice to the subject of any sealed record whenever someone moves to gain access to a sealed record or to reclassify the record. Currently, the rule requires only notice to members of the press that have requested notice.

The other amendment Mr. Thompson proposes is unnecessary and unwarranted. The rule currently lets appellants make the arguments Mr. Thompson is proposing, because it says the court may consider "any relevant factor, interest, or policy," not just those specifically listed in Rule 4-202. Listing the fact that the case is on appeal as a reason to grant access would be an endorsement of the merits of the argument Mr. Thompson is making. But his argument is problematic: Granting an appellant access to a sealed record just so they can challenge the sealing of the record will often undermine the very purpose of sealing the record in the first place. Instead of endorsing one side or the other of this debate, the rule currently allows these arguments to be raised and addressed on a case-by-case basis.

Rule 4-202.02. Records Classification.**Intent:**

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) licensed paralegal practitioner name;

(2)(L)(iv) case number;

(2)(L)(v) case status;

(2)(L)(vi) civil case type or criminal violation;

(2)(L)(vii) civil judgment or criminal disposition;

(2)(L)(viii) daily calendar;

(2)(L)(ix) file date;

(2)(L)(x) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer or licensed paralegal practitioner appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as not public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

(2)(W) probation progress/violation reports;

(2)(X) publications of the administrative office of the courts;

(2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Z) record of the receipt or expenditure of public funds;

(2)(AA) record or minutes of an open meeting or hearing and the transcript of them;

(2)(BB) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(CC) record of a request for a record;

(2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(EE) rules of the Supreme Court and Judicial Council;

(2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(GG) statistical data derived from public and non-public records but that disclose only public data; and

(2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be

a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) Sealed Court Records. The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402 – Actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; ~~and~~

(3)(I) on appeal, any record previously designated as sealed by another court; and

(3)(~~J~~) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

(4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

(4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;

(4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;

(4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

(4)(B)(iv) Title 78B, Chapter 7, Protective Orders;

(4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;

(4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;

(4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

(4)(C) records related to determinations of indigency;

- (4)(D) an affidavit supporting a motion to waive fees;
- (4)(E) aggregate records other than public aggregate records under subsection (2);
- (4)(F) alternative dispute resolution records;
- (4)(G) applications for accommodation under the Americans with Disabilities Act;
- (4)(H) jail booking sheets;
- (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(J) judgment information statement;
- (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;
- (4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;
- (4)(N) medical, psychiatric, or psychological records;
- (4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:
- (4)(O)(i) name change of a minor;
- (4)(O)(ii) guardianship or conservatorship for a minor;
- (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party [\[KW1\]](#);
- (4)(O)(iv) protective orders and stalking injunctions; and
- (4)(O)(v) custody orders and decrees;
- (4)(P) nonresident violator notice of noncompliance;

(4)(Q) personnel file of a current or former court personnel or applicant for employment;

(4)(R) photograph, film, or video of a crime victim;

(4)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(U) record submitted for in camera review until its public availability is determined;

(4)(V) reports of investigations by Child Protective Services;

(4)(W) statement in support of petition to determine competency^[KW2];

(4)(X) victim impact statements;

(4)(Y) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure; and

(4)(BB) other records as ordered by the court under Rule 4-202.04.

(5) Protected Court Records. The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

(5)(B) records that are subject to the attorney client privilege;

(5)(C) bids or proposals until the deadline for submitting them has closed;

(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;

(5)(F) court security plans;

(5)(G) investigation and analysis of loss covered by the risk management fund;

(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;

(5)(I) confidential business records under Utah Code Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

(5)(J)(iv) concern the security of a court facility;

(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;

(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;

(5)(O) record the disclosure of which would jeopardize life, safety, or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;

(5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and

(5)(V) other records as ordered by the court under Rule 4-202.04.

(6) Juvenile Court Social Records. The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; and

(6)(H) treatment or service plans.

(7) Juvenile Court Legal Records. The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) Safeguarded Court Records. The following court records are safeguarded:

(8)(A) upon request, location information, contact information, and identity information other than name of a petitioner and other persons to be protected in an action filed under [KW3](#) Title 78B, Chapter 7, Protective Orders;

(8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

(8)(C) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(D) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;

(8)(E) the following information about a victim or witness of a crime:

(8)(E)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;

(8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

PUBLIC COMMENTS

Rule 4-202.04

William Hains

November 3, 2022 at 8:09 pm

Please consider the following changes to Rule 4-202.04

1. Authorization to Access Records:

The clarification on lines 23-24 is helpful. It should also be added to line 13, specifying that a request to access a non-public record should be directed to the court clerk only when access is authorized by rule 4-202.03 (as opposed authorization by the balancing of factors under this rule.)

2. Denial of Requests to Access Records:

The addition of “public” before “record” on line 20 should be removed. Adding “public” inadvertently precludes relief for those who are entitled to access a non-public record but are mistakenly denied access by the court clerk. Subsection (1) directs those who are entitled to access records (either public or non-public) to request access from the clerk. Subsection (2)(A) currently authorizes all those who are denied access by a court clerk to file a motion for access. The proposed amendment would limit that relief to those who are denied access to public records.

Subsection (2)(B) does not solve the problem because filing a motion is limited to those who are not authorized by rule to access the non-public record. Filing a motion would in effect be a concession that the person is not authorized under rule 4-202.03.

3. Petitions to Access Records:

The rule currently specifies in Subsection (3) that for requests to reclassify a record, a motion is the appropriate vehicle when the court has jurisdiction over the case and a petition is the appropriate vehicle when the court no longer has jurisdiction. Logically, that same distinction should apply to requests to access a non-public record addressed under Subsection (2). But Subsection (2) doesn’t make that distinction—it speaks only of motions. The heading added on line 18 acknowledges the distinction, but it should also be specified in the body of Subsection (2).

For example, the following language could be added to the end of line 21: “if the court record is associated with a case over which the court has jurisdiction, or a petition to access the record if the court record is associated with a case over which the court no longer has jurisdiction.” The same language should then be added at the end of the sentence on line 24.

4. Procedural Rules:

Moving what was Subsection (5) into Subsection (3) has the effect of making the procedural rules inapplicable to motions and petitions to access records under Subsection (2). The procedural rules identified in Subsection (5) should apply both to requests to reclassify records, and to request to access records.

It makes sense to move Subsection (5) above Subsection (4), but it should still be its own subsection, not nested under Subsection (3).

5. Service:

The rule should require service to the person whose interests are protected by the non-public classification. For example, a crime victim is not a true “party” to an action but may have a privilege interest in records filed with the court such as medical and mental health records. The rule currently does not require any notice to such persons when someone seeks to access or reclassify such records. Because the person whose interests are protected may not always be known to someone seeking access or reclassification, the rule should require the court to provide notice to that person when the movant or petitioner certifies that the person is unknown.

The rule should also clarify who is entitled to notice for petitions. The rule implicitly requires service on any parties when a motion is filed in a case over which the court has jurisdiction. (It does so by incorporating the applicable rules of procedure.) But it is not clear who, if anyone, is entitled to service in a case over which the court no longer has jurisdiction. (Who are the “parties” referred to in the rules of procedure? The parties in the underlying case? Or new parties to the petition?) At the very least, an advisory committee note could clarify that the parties to the original case should receive service when a petition is filed. But rule language would be preferable.

These changes could be accomplished by breaking lines 41-48 into several subsections. For example:

“(4)(A) As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure.

(4)(B) In addition to the service required under the procedural rules identified in Subsection (4)(A),

(i) the person filing the petition shall serve any parties to the case over which the court previously had jurisdiction;

(ii) the person filing the motion or petition shall serve the person who is the subject of the non-public record if known, or certify that the person who is the subject of the non-public record is unknown;

(iii) the court shall provide notice to the subject of the non-public record when the person filing the motion or petition certifies that the subject is unknown; and

(iv) the person filing the motion or petition shall serve any representative of the press who has requested notice in the case.

(4)(C) The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the court decides public interest in the record warrants a hearing.”

William Hains
Assistant Solicitor General

Rule 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case.

Intent:

To establish the process for accessing a court record associated with a case.

Applicability:

This rule applies to court records associated with a case.

Statement of the Rule:

(1) **Written request.** A request to access a public court record shall be presented in writing to the clerk of the court unless the clerk waives the requirement. A request to access a non-public court record to which a person is authorized access [pursuant to 4-202.03](#) shall be presented in writing to the clerk of the court. A written request shall contain the requester's name, mailing address, daytime telephone number and a description of the record requested. If the record is a non-public record, the person making the request shall present identification.

(2) Motion or petition to access record.

(2)(A) If a written request to access a court record is denied by the clerk of court, the person making the request may file a motion [or petition](#) to access the record.

(2)(B) A person not authorized to access a non-public court record [pursuant to rule 4-202.03](#) **must** file a motion [or petition](#) to access the record. If the court allows access, the court may impose any reasonable conditions to protect the interests favoring closure.

[\(2\)\(C\) A motion should be filed when the court record is associated with a case over which the court has continuing jurisdiction. A petition should be filed to access the record if the court record is associated with a case over which the court no longer has jurisdiction.](#)

(3) Motion or petition to reclassify record.

(3)(A) If the court record is associated with a case over which the court has [continuing](#) jurisdiction, a person with an interest in a court record may file a motion to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.

(3)(B) If the court record is associated with a case over which the court no longer has jurisdiction, a person with an interest in the record may file a petition to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court

social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.

(45) Rules of Procedure Applicable to Motions and Petitions. As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The person filing the motion or petition shall serve any representative of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the court decides public interest in the record warrants a hearing.

(54) Classify – Redact. The court may classify the record as private, protected, ~~or~~ sealed, safeguarded, juvenile court legal, or juvenile court social, or redact information from the record if the record or information:

(54)(A) is classified as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social under Rule 4-202.02;

(54)(B) is classified as private, controlled, or protected by a governmental entity and shared with the court under the Government Records Access and Management Act;

(54)(C) is a record regarding the character or competence of an individual; or

(54)(D) is a record containing information the disclosure of which constitutes an unwarranted invasion of personal privacy.

~~(5) As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The person filing the motion or petition shall serve any representative of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the court decides public interest in the record warrants a hearing.~~

(56) Factors and findings. In deciding whether to allow access to a court record or whether to classify a court record as private, protected, or sealed, safeguarded, juvenile court legal, or juvenile court social, or to redact information from the record, the court may consider any relevant factor, interest, or policy, including but not limited to the interests described in Rule 4-202. In ruling on a motion or petition under this rule the court shall:

(56)(A) make findings and conclusions about specific records;

(56)(B) identify and balance the interests favoring opening and closing the record; and

(56)(C) if the record is ordered closed, determine there are no reasonable alternatives to closure sufficient to protect the interests favoring closure.

(67)(A) **Appellate briefs.** If an appellate brief is sealed, the clerk of the court shall seal the brief under Rule 4-205. If an appellate brief is classified as private, protected, safeguarded, juvenile court legal, or juvenile court social, the clerk of the court shall allow access only to persons authorized by Rule 4-202.03. If the court orders information redacted from the brief, the clerk of the court shall remove the information and allow public access to the edited brief.

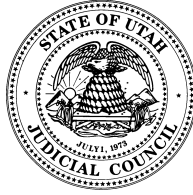
(7)(B) **State Law Library.** If the petitioner serves the order on the director of the State Law Library, the director shall comply with the order in the same manner as the clerk of the court under paragraph (67)(A).

(87)(G) **Compliance.** Unless otherwise ordered by the court, the order is binding only on the court, the parties to the motion or petition, and the state law library. Compliance with the order by any other person is voluntary.

(98) **Governing rules.** A request under this rule to access a public court record -is also governed-~~also~~ by Rule 4-202.06. A motion or petition under this rule is not governed by Rule 4-202.06 or Rule 4-202.07.

Effective: May 1, 2023~~16~~

Tab 6



Administrative Office of the Courts

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

Ronald B. Gordon, Jr.
State Court Administrator

Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council / Management Committee
FROM: Michael C. Drechsel, Assistant State Court Admin. / MUJI Committee Staff
DATE: October 31, 2022
RE: MUJI Criminal – Committee Membership Appointment

The Standing Committee on Model Utah Criminal Jury Instructions is comprised of 12 individuals, as follows:

- two district court judges;
- one justice court judge;
- four prosecutors;
- four defense counsel; and
- one person skilled in linguistics or communication.

The committee is chaired by Judge James Blanch. Currently, the committee needs to fill one justice court judge position, one prosecutor position, and two defense counsel positions.

RECOMMENDATIONS:

After a careful review, the committee chair recommends to the Judicial Council:

- 1) that **Judge Brendan McCullagh** be re-appointed to the committee as the justice court judge member;
- 2) that **Brian Williams** be appointed to the committee as one of the four prosecutor members; and
- 3) that **Freyja Johnson** be appointed to the committee as one of the four defense counsel members; and
- 4) that **Dustin Parmley** be appointed to the committee as one of the four defense counsel members.

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

These membership terms would start December 1, 2022, and run to November 30, 2025. These applicants have each indicated a willingness to serve. Although Judge McCullagh has served six previous terms on the committee, he continues to make a valuable contribution to the committee's work and the committee chair urges the Judicial Council / Management Committee to seriously consider reappointing Judge McCullagh for an additional term. The other applicants have not served previously on this or any other court committee and are not currently serving on any other court committee.

PROCESS:

The committee solicited applications from the Utah Bar. The committee received fourteen applications from well-qualified individuals. The above recommendations are the result of a careful review of the submitted application materials.

CURRENT COMMITTEE MEMBERSHIP:

The current list of committee members is:

Member	Position	Organization	Term Expire
Hon. James Blanch, <i>chair</i>	District Court Judge	Third District Court	09/01/2023
Hon. Teresa Welch	District Court Judge	Third District Court	09/01/2024
<i>reappointment</i>	Justice Court Judge	West Valley Justice Court	08/23/2022
Sandi Johnson	Prosecutor	Utah County Attorney's Office	09/01/2023
<i>vacant</i>	Prosecutor		09/01/2023
Jeffrey Mann	Prosecutor	Utah Attorney General's Office	09/01/2024
Richard Pehrson	Prosecutor	S.L. Co. District Attorney's Office	09/01/2024
<i>vacant</i>	Defense Counsel		11/25/2022
<i>vacant</i>	Defense Counsel		01/01/2022
Sharla Dunroe	Defense Counsel	Salt Lake Legal Defenders Assoc.	09/01/2024
Janet Lawrence	Defense Counsel	Salt Lake Legal Defenders Assoc.	09/01/2024
Jennifer Andrus	Linguist / Communic.	University of Utah – Writing	09/01/2023
Hon. Linda Jones	District Court Judge	Third District Court	<i>Emeritus</i>

Tab 7

Agenda

Name

Address

City, State, Zip

Phone

Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Order on Motion for Leave to Amend</p> <p>_____ (name of motion)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	--

The matter before the court is ☐ plaintiff/petitioner's ☐ defendant/respondent's
Motion to _____ (name of motion).

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 ☐ was not present.

☐ was represented by _____.

☐ was not represented.

Defendant/Respondent

☐ was ☐ was not present.

☐ was represented by _____.

☐ was not represented.

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

The court finds:

☐ granting this motion is in the interest of justice.

☐ the proposed amendment is not untimely, unjustified, or prejudicial.

☐ the proposed amendment is untimely, unjustified, or prejudicial because:

The court orders:

☐ the motion is granted.

☐ the motion is denied.

The court further orders:

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

Date

Signature ►

Commissioner

Date

Signature ►

Judge

Approved as to form.

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

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

Certificate of Service

I certify that I filed with the court and am serving a copy of this Order on Motion on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> 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 <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 <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

Check your email. You will receive information and documents at this email address.

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 _____

Motion to Consolidate
(Utah Rule of Civil Procedure 42)

☐ Hearing Requested

Plaintiff/Petitioner

v.

Defendant/Respondent

Case Number

Judge

Commissioner (domestic cases)

1. I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent.
2. There are two cases that involve the same parties, facts and circumstances. These cases are filed in the same county.
3. The case number for the case that was filed first is: _____.
4. The case number for the case that was filed second is:
_____.

5. All issues of law can be resolved in a single case.
6. I ask the court to consolidate the second case into the first case.
7. I am filing a Motion to Consolidate in both cases.
8. ☐ I request a hearing.
☐ I do not request a hearing.

Plaintiff/Petitioner or Defendant/Respondent

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	_____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

_____	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 will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided 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

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.

Aviso para el demandado (o acusado)

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

www.utcourts.gov/howto/filing/motions

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal

(www.utcourts.gov/howto/legalassist/) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

Certificate of Service

I certify that I filed with the court and am serving a copy of this Motion (and Notice of Motion) to Consolidate on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> 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 <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 <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 _____

Plaintiff/Petitioner V. Defendant/Respondent	Order on Motion to Consolidate

Case Number

Judge

Commissioner (domestic cases)

The matter before the court is a Motion to Consolidate. 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.

The court finds:

1. ☐ Case number _____ and this case involve the same parties, facts and circumstances. All issues of law can be resolved in a single case.

The court orders:

2. The Motion to Consolidate is:

☐ denied

☐ granted. Case number _____ is consolidated into this case, which is case number _____.

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

_____	Signature ►	_____
Date	Commissioner	_____
_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

_____	Signature ►	_____
Date	Plaintiff/Petitioner or Attorney	_____
_____	Signature ►	_____
Date	Defendant/Respondent or Attorney	_____

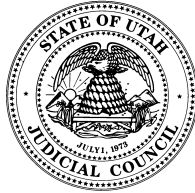
Certificate of Service

I certify that I filed with the court and am serving a copy of this Order on Motion to Consolidate on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> 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 <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 <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 _____



Administrative Office of the Courts

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

November 9, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Nathanael Player, on behalf of the Forms Committee

RE: Updates to Petition for Sex Change

The Forms Committee has approved updates to the Petition for Sex Change¹. We want to highlight one for the Council. Instead of only binary sex change options, the form now provides these options: male, female, other.

In 2021, the Utah Supreme Court issued an opinion allowing petitioners to change their legal sex. *In the Matter of the Sex Change of Childers-Gray*, 2021 UT 13 (2021). At footnote 47 of the opinion, the Court did not address the question of whether a non-binary sex designation was allowed because it was not addressed by the parties. However, the statute the Court interpreted, Utah Code 26-2-11(1), makes no mention of male, female, or any binary sex designation. The statute says:

When a person born in this state has a name change or sex change approved by an order of a Utah district court or a court of competent jurisdiction of another state or a province of Canada, a certified copy of the order may be filed with the state registrar with an application form provided by the registrar.

Given the absence of a prohibition by the Supreme Court or in the relevant statute, the Committee elected to provide petitioners the option to change their legal sex to something other than male or female. This decision was made knowing that there are more than two sexes² and with the aim of providing and expanding access to the courts for all Utahns.

¹ The Council approved a previous version of this form at the March 2022 Council meeting.

² For example, MedlinePlus, part of the National Library of Medicine from the National Institutes of Health, explains the term intersex as follows: Intersex is a group of conditions in which there is a discrepancy between the external genitals and the internal genitals (the testes and ovaries). Available at: <https://medlineplus.gov/ency/article/001669.htm>, (last visited Nov. 9, 2022).

Name (currently used)

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the matter of the name change of

(Name of person whose information will be changed)

[] A minor.

**Department of Corrections
Certification Regarding Sex and
Kidnap Offender and Child Abuse
Offender Registries**

Case Number

Judge

Petitioner's full name (first, middle and last)	Date of Birth (MM/DD/YYYY)	Driver license / state ID number and state of issuance

----- *This section to be completed by Offender Registration Program staff* -----

I certify that I searched Utah's Sex and Kidnap Offender Registry and Child Abuse Offender Registry for

_____ (name)
and the search results were:

Child Abuse Offender Registry

- ☐ Positive – the above-named person is on the Child Abuse Offender Registry.
☐ Negative – the above-named person is not on the Child Abuse Offender Registry.
☐ Other: _____

Sex and Kidnap Offender Registry

- ☐ Positive – the above-named person is on the Sex and Kidnap Offender Registry.
☐ Negative – the above-named person is not on the Sex and Kidnap Offender Registry.
☐ Other: _____

Date

Signature ► _____

Printed Name of Offender
Registration Program staff

Instructions

1. **Complete the form**

Leave the section that says “This section to be completed by Offender Registration Program staff” blank.

2. **Either email or mail the form to the Offender Registration Program**

You have two options to send the form – email or mail. Only do one of them.

Option A: Email a scanned PDF of the completed form to registry@utah.gov.

The Program will reply to your email with the completed form.

Option B: Send the form through the US mail. You cannot drop off the form in person.

Address an envelope to yourself with your name and mailing address and put a stamp on it so that the completed form can be mailed back to you.

Put the envelope you addressed to yourself and the form in another envelope. Send that envelope to:

Offender Registration Program

14717 Minuteman Drive
Draper, UT 84020

3. **Wait**

The Offender Registration Program staff will fill out their section and will return the completed form to you.

4. **File the form with the court, along with your other paperwork**

Once the form is returned to you, file it with the court along with your petition and order.

If you aren't sure what to do with this form, visit www.utcourts.gov/selfhelp or contact the Self-Help Center at:

Email: selfhelp@utcourts.gov

Text: 801-742-1898

Phone: 888-683-0009

Name (currently used)

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am ☐ Petitioner ☐ Petitioner's Attorney (Utah Bar #:_____)

☐ Petitioner's Licensed Paralegal Practitioner (Utah Bar #:_____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of the (choose all that apply):

☐ name change of:

☐ sex change of:

Petitioner (current legal name)

Petition for (choose all that apply):

☐ **Name Change**

(Utah Code 42-1-1)

☐ **Sex Change**

(Utah Code 26-2-11)

Case Number

Judge

Petitioner Information

1. I live in _____ County, Utah.

2. I was born on: _____ (date).

3. I am not filing this petition for a wrongful or fraudulent purpose.

4. Granting this petition will not affect any right, title, or interest of anyone else, and I do not know of anyone else who should be notified of this petition.
5. I do not know any reason why this petition should not be granted.
6. I request a hearing.

☐ **Name Change** (Only complete paragraphs 7-14 if you are asking for a name change.)

7. I request a name change.

The name on my birth certificate is:

First name	
Middle name(s) (if any)	
Last Name	

☐ My name changed due to marriage, divorce, or court order. My current legal name is:

First name	
Middle name(s) (if any)	
Last Name	

I ask the court to order that my legal name be (proposed new name):

First name	
Middle name(s) (if any)	
Last Name	

I want to change my name because:

8. I live in _____ County, Utah and have lived here

since _____ (date), which is at least one year before filing this petition.

9. Except for this petition:

☐ I am not involved in any court actions or proceedings.

☐ I am involved in the following court actions or proceedings:

Court case name		Court case number	
Judge's name		County and state	
Type of case	<input type="checkbox"/> Order of protection <input type="checkbox"/> Civil litigation	<input type="checkbox"/> Juvenile court proceeding <input type="checkbox"/> Criminal case	
Did the judge make an order?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Court case name		Court case number	
Judge's name		County and state	
Type of case	<input type="checkbox"/> Order of protection <input type="checkbox"/> Civil litigation	<input type="checkbox"/> Juvenile court proceeding <input type="checkbox"/> Criminal case	
Did the judge make an order?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

10. I am:

☐ not on probation or parole.

☐ On probation or parole.

Court case name		Court case number	
Judge's name		County and state	
Type of case	<input type="checkbox"/> Order of protection <input type="checkbox"/> Civil litigation	<input type="checkbox"/> Juvenile court proceeding <input type="checkbox"/> Criminal case	
Did the judge make an order?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Court case name		Court case number	
Judge's name		County and state	
Type of case	<input type="checkbox"/> Order of protection <input type="checkbox"/> Civil litigation	<input type="checkbox"/> Juvenile court proceeding <input type="checkbox"/> Criminal case	
Did the judge make an order?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

11. I am not on the Child Abuse Offender Registry. (Utah Code 77-43-105(7))
12. I am (Choose one.):
- ☐ not on the Sex and Kidnap Offender Registry.
- ☐ on the Sex and Kidnap Offender Registry. Granting this petition is not against the public interest because (Explain.):
-
-

13. I am filing a Certification Regarding Offender Registry completed by the Utah Department of Corrections.

14. I am not changing my name to avoid creditors or anyone else with a claim against me.

☐ **Sex Change** (Only complete paragraphs 15-17 if you are asking for a sex change.)

15. My birth certificate says that my legal sex is ☐ male ☐ female ☐ other: _____

16. I ask the court to order that my legal sex is ☐ male ☐ female ☐ other: _____

17. I have attached evidence of appropriate clinical care or treatment for gender transitioning or change by a licensed medical professional. (example: letter from medical provider).

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

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of the (choose all that apply):

☐ name change of:

☐ sex change of:

Petitioner (current legal name)

Order on Petition for:

☐ **Name Change**
(Utah Code 42-1-1)

☐ **Sex Change**
(Utah Code 26-2-11)

Case Number

Judge

1. Petitioner appeared in court on _____ (date).

2. Petitioner was born on: _____ (date).

The court finds:

3. ☐ All the notices required by law have been given.

4. Objections (Choose one.):

☐ No objections to the petition were made.

☐ Objections to the petition were made by:

-
5. ☐ The statements in the petition are accepted as true.
6. ☐ The requests in the petition are not for a wrongful or fraudulent purpose.
7. ☐ For name change: The name on petitioner's birth certificate is:

First name	
Middle name(s) (if any)	
Last name	

☐ The petitioner's name changed due to marriage, divorce, or court order. The petitioner's current legal name is:

First name	
Middle name(s) (if any)	
Last Name	

Petitioner:

- ☐ is not on the Child Abuse Offender Registry
- ☐ is on the Child Abuse Offender Registry.

Petitioner:

- ☐ is not on the Sex and Kidnap Offender Registry.
- ☐ is on the Sex and Kidnap Offender Registry, but granting the petition is not against the public interest (Utah Code 77-41-105(8)(a)).

8. ☐ For sex change: petitioner's legal sex is ☐ male ☐ female ☐ other: _____
9. ☐ For sex change: the petition is supported by objective evidence of appropriate clinical care or treatment for gender transitioning or change, provided by a licensed medical professional.
10. ☐ Other findings (if any):

The court concludes:

11. The statements in the petition:

☐ are sufficient and the petition should be granted.

☐ are not sufficient and the petition should not be granted.

12. ☐ Name Change

The requirements for a name change in Utah Code 42-1-1 through 42-1-3:

☐ have been met.

☐ have not been met.

13. ☐ Sex Change

The requirements for a legal sex change:

☐ have been met.

☐ have not been met.

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

The court orders:

14. The Petition is

☐ granted ☐ denied

15. Sex Change: ☐ Petitioner's legal sex is changed to: ☐ male ☐ female ☐ other:_____

This new legal sex may be entered on the petitioner's birth certificate and used as the petitioner's new legal sex from this date forward.

16. Name Change: ☐ Petitioner's legal name is changed to:

First name	
Middle name(s) (if any)	
Last name	

This new legal name may be entered on the petitioner's birth certificate and used as the petitioner's new legal name from this date forward.

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 am serving a copy of this Order on Petition for Name Change or Sex Change on the following people.

(Only required if there were other interested parties in this case).

Person's Name	Service Method	Service Address	Service Date
(Interested party or attorney)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> 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.)		
(Interested party or attorney)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> 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

Check your email. You will receive information and documents at this email address.

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 _____

In the Matter of (select one)

- ☐ the Marriage of (for a divorce with or without children, annulment, separate maintenance, or temporary separation case)
☐ the Children of (to establish custody, parent-time or child support)
☐ the Parentage of the Children of (for a paternity case)

(name of Petitioner)

and

(name of Respondent)

Other parties (if any)

Financial Declaration

(Utah Rule of Civil Procedure 26.1)

Case Number

Judge

Commissioner

You must fully and accurately disclose all assets and income in this document and provide attachments. If you fail to disclose all assets and income, you could be subject to sanctions under Utah Rule of Civil Procedure 37. Sanctions can include an award of non-disclosed assets to the other party, attorney's fees or other sanctions.

1. I am providing this form to the other party and (Choose one.):

☐ I am not filing the Financial Declaration with the court because a hearing about child support, spousal support, property, debts, attorney fees and court costs is not scheduled, or because the court has not ordered me to file it.

I am filing the separate Certificate of Service of Financial Declaration.

☐ I am filing the Financial Declaration with the court because a hearing about child support, spousal support, property, debts, attorney fees and court costs is scheduled, or the court has ordered me to file it.

I am also filing the separate Certificate of Service of Financial Declaration.

2.

I am attaching the following documents, if available:

Tax returns. For the two years before the petition was filed : <ul style="list-style-type: none">• federal and state income tax returns – personal and for any entities in which I have a majority or controlling interest• all documents used to prepare the tax returns	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Pay stubs or other proof of income. For the 12 months before the petition was filed: <ul style="list-style-type: none">• pay stubs• other proof of all earned and un-earned income	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Loan applications. For the 12 months before the petition was filed: <ul style="list-style-type: none">• all loan applications• financial statements used to apply for the loans	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Real estate documents. Documents verifying the value of all real estate in which I have an interest. This includes the most recent appraisal, tax valuation, and refinance documents.	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Financial statements. For the 3 months before the petition was filed all financial statements. This includes, but is not limited to, checking, savings, credit cards, money transfer apps, money market funds, certificates of deposit, brokerage,	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply

investment, and retirement.	
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You do not have to disclose all of the information above if your case does not involve dividing property or other valuables. This could include paternity, modification, and grandparents' rights cases. If you are not dividing property or other valuables in your case you must only serve:

- your last three current paystubs and the previous year tax return;
- six months of bank and profit and loss statements if you are self-employed; and
- proof of any other assets or income that the court might need when deciding how much child support to order.

You and the other party may be required to complete a full Financial Declaration later.

☐ I marked some documents above as "not attached" because:

Document	Reason

3. **Employment** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I am employed as (Choose all that apply):

☐ an hourly employee (Form W-2)

☐ a salaried employee (Form W-2)

☐ self-employed (Form 1099, Form K-1, Schedule C, etc.)

☐ other (Explain): _____

Name of employer	Employer's address and phone number	Job title	Hourly rate or annual salary	Hours per week (If hourly)
			\$	
			\$	
			\$	

☐ I am unemployed because:

☐ I have estimated the amounts in paragraph 3.

Item estimated	Basis for estimation

4. **Gross Monthly Income** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I have the following monthly income before tax deductions:
(Print your pre-tax income in the boxes below. For income that changes from month to month, calculate the annual total and divide by 12 months to list a monthly average.)

Source of income	Monthly amount
Work (Including self employment, wages, salaries, commissions, bonuses, tips and overtime)	\$
Rental income	\$
Business income	\$
Interest	\$
Dividends	\$
Retirement income (Including pensions, 401(k), IRA, etc.)	\$
Worker's compensation	\$
Private disability insurance	\$
Social Security Disability Income (SSDI)	\$
Supplemental Security Income (SSI)	\$
Social Security (Other than SSDI or SSI)	\$
Unemployment benefits	\$
Education benefits (Including grants, loans, cash scholarships, etc.)	\$
Veteran's benefits	\$
Alimony	\$
Child support	\$

Source of income	Monthly amount
Payments from civil litigation	\$
Victim restitution	\$
Public assistance (Including AFDC, FEP, TANF, welfare, etc.)	\$
Financial support from household members	\$
Financial support from non-household members	\$
Trust income	\$
Annuity income	\$
Other (Describe)	\$
Other (Describe)	\$
Total gross monthly income	\$

☐ I have estimated the amounts in paragraph 4.

Item estimated	Basis for estimation

☐ I have no income because:

5. **Monthly Tax Deductions** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I have no monthly tax deductions because I have no income.

☐ I have the following monthly tax deductions.

Type of tax deduction	Amount
Federal income tax	\$
State income tax	\$
Municipal income tax	\$
FICA	\$
Medicare	\$

Type of tax deduction	Amount
Total monthly tax deductions	\$

☐ I have estimated the amounts in paragraph 5.

Item estimated	Basis for estimation

6. After Tax Income

☐ My monthly income is:

\$ _____	Gross monthly income from section 4
- \$ _____	Minus monthly tax deductions from section 5
<hr/>	
= \$ _____	Equals after-tax monthly income

☐ I have no income.

7. Monthly Expenses (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Include amounts you pay for yourself and any spouse, children or other dependents in your household.)

- ☐ No party has requested alimony so I am only completing the "Current Amount" column, which represents the amount I pay now.
- ☐ One of the parties has requested alimony so I am completing both the "Current Amount" and the "Marital Expenses" column, which represents the amount paid during the marriage prior to separation.

Monthly expense	Current Amount	Marital Expenses
Rent or mortgage	\$	\$
Real estate taxes (if not included in mortgage)	\$	\$
Real estate insurance (if not included in mortgage)	\$	\$
Real estate maintenance	\$	\$
Food and household supplies	\$	\$
Clothing	\$	\$
Automobile payments	\$	\$

Monthly expense	Current Amount	Marital Expenses
Automobile insurance	\$	\$
Automobile fuel	\$	\$
Automobile maintenance	\$	\$
Other transportation costs (public transportation, parking, etc.)	\$	\$
Utilities (such as electricity, gas, water, sewer, garbage)	\$	\$
Telephone	\$	\$
Paid television, cable, satellite	\$	\$
Internet	\$	\$
Credit card payments	\$	\$
Loans and other debt payments	\$	\$
Alimony	\$	\$
Child support	\$	\$
Child care	\$	\$
Extracurricular activities for children	\$	\$
Education (children)	\$	\$
Education (self)	\$	\$
Health care insurance	\$	\$
Health care expenses (excluding insurance listed above)	\$	\$
Other insurance (describe)	\$	\$
Entertainment	\$	\$
Laundry and dry cleaning	\$	\$
Donations	\$	\$
Gifts	\$	\$
Union and other dues	\$	\$
Garnishment or income withholding order	\$	\$
Retirement deposits (including pensions, 401(k), IRA, etc.)	\$	\$
Other (describe)	\$	\$
Other (describe)	\$	\$
Total monthly expenses	\$	\$

[] I have estimated the amounts in paragraph 7.

Item estimated	Basis for estimation

8. **Business Interests** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no business interests.

☐ I have the following business interests.

Business name		
Address & phone		
Nature of business		
Current value of the business \$	Date of formation:	Percent owned by _____% Petitioner ____% Respondent

Business name		
Address & phone		
Nature of business		
Current value of the business \$	Date of formation:	Percent owned by _____% Petitioner ____% Respondent

☐ I have estimated the amounts in paragraph 8.

Item estimated	Basis for estimation

9. **Financial Assets** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no financial assets.

☐ I have the following financial assets.

Asset	Name & address of institution	Names on account	Current balance
Bank or credit union Account number: _____ Date opened: _____ Type: <input type="checkbox"/> checking <input type="checkbox"/> savings <input type="checkbox"/> other			\$
Bank or credit union Account number: _____ Date opened: _____ Type: <input type="checkbox"/> checking <input type="checkbox"/> savings <input type="checkbox"/> other			\$
Stocks, bonds, securities, money market account Account number: _____ Date opened: _____			\$
Retirement account Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$

Asset	Name & address of institution	Names on account	Current balance
Profit sharing plan Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$
Annuity Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$
Life insurance Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			Term life benefit amount: \$ _____
			Whole life benefit amount: \$ _____
			Cash value: \$ _____
Money owed to me Date of loan: _____			\$
Cash			\$
Money transfer app (describe, e.g. Paypal, Venmo, Zelle, etc.)			\$

Asset	Name & address of institution	Names on account	Current balance
Other (describe)			\$

☐ I have estimated the amounts in paragraph 9.

Item estimated	Basis for estimation

10. **Real Estate** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no real estate.

☐ I have the following real estate.

Home

<hr/> Address			
<hr/> Date acquired	<hr/> Name(s) on title	<hr/> \$ Original cost	<hr/> \$ Current value
<hr/> First mortgage or lien holder (name & address)		<hr/> \$ Amount owed	<hr/> \$ Monthly payments
<hr/> Second mortgage or lien holder (name & address)		<hr/> \$ Amount owed	<hr/> \$ Monthly payments

Other real estate

<hr/> Address			
<hr/> Date acquired	<hr/> Name(s) on title	<hr/> \$ Original cost	<hr/> \$ Current value
<hr/> First mortgage or lien holder (name & address)		<hr/> \$ Amount owed	<hr/> \$ Monthly payments
<hr/> Second mortgage or lien holder (name & address)		<hr/> \$ Amount owed	<hr/> \$ Monthly payments

☐ I have estimated the amounts in paragraph 10.

Item estimated	Basis for estimation

11. **Personal Property** (Such as vehicles, boats, trailers, major equipment, furniture, jewelry, and collectibles. You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no personal property.

☐ I have the following personal property.

Property description (if automobile, include year, make, and model)	Debt owed to (name and address)	Names on title (if applicable)	Current value	Amount owed	Minimum monthly payments
Vehicle			\$	\$	\$
Vehicle			\$	\$	\$
			\$	\$	\$
			\$	\$	\$
			\$	\$	\$

☐ I have estimated the amounts in paragraph 11.

Item estimated	Basis for estimation

12. **Debts Owed** (Do not include amounts you owe on property reported in the Real Estate or Personal Property sections. You must attach proof of amounts listed. You must also attach 3 months of credit/debit account statements. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I do not owe any debts.

☐ I owe the following debts.

Type of debt (such as credit card, cash loan, or installment payment and account number, if any)	Debt owed to (name and address and phone number)	Names on debt	Amount owed	Minimum monthly payments

Type of debt (such as credit card, cash loan, or installment payment and account number, if any)	Debt owed to (name and address and phone number)	Names on debt	Amount owed	Minimum monthly payments
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$

[] I have estimated the amounts in paragraph 12.

Item estimated	Basis for estimation

Item estimated	Basis for estimation

Warning

If you do not fully disclose all assets and income in this document and provide attachments you could be subject to sanctions under Utah Rule of Civil Procedure 37.

Sanctions can include an award of non-disclosed assets to the other party, attorney's fees or other sanctions.

Petitioner or Respondent

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 _____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

Date

Signature ► _____
Printed Name _____

Name

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

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 _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Motion for Leave to Amend (Utah Rule of Civil Procedure 15)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	--

1. I ask the court for permission to amend my
_____ (name of document).

2. I make this request because: (choose all that apply)

☐ more than 21 days have passed since I was served with the other party's answer, counterclaim, or motion to dismiss the document named in paragraph 1.

☐ I have previously amended the document in paragraph 1.

☐ more than 21 days have passed since I served the document named in paragraph 1 on the other party.

3. This motion is timely because (choose all that apply):

☐ Discovery in this case has not closed

☐ Trial has not been scheduled yet

☐ An order of dismissal has not been entered

☐ This case has not been pending for several years

4. This motion will not prejudice the other party because they will still have time to prepare a response to the new information in my pleading because (explain):

5. Granting this motion will be in the interest of justice.

6. I have attached a copy of the amended document.

Plaintiff/Petitioner or Defendant/Respondent

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 _____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

Date

Signature ► _____
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 will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided 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: utcourts.gov/motions



Scan QR code to visit page

Finding help

The court's Finding Legal Help web page (utcourts.gov/help) 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.



Scan QR code to visit page

Aviso para la parte que responde

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

utcourts.gov/motions-span



Para acceder esta página escanee el código QR

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal (utcourts.gov/help-span)

tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.



Para acceder esta página escanee el código QR

Certificate of Service

I certify that I filed with the court and am serving a copy of this Motion for Leave to Amend on the following people.

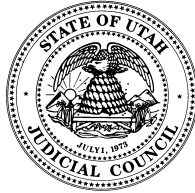
Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> 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 <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 <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

Tab 8



Administrative Office of the Courts

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

November 13, 2022

Ronald Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rules for Public Comment

The Policy, Planning, and Technology Committee recommends that the following rules be approved for a 45-day public comment period.

CJA 6-501. Reporting requirements for guardians and conservators

Proposed amendments clarify that a corporate fiduciary must attach its own internal reports and accountings to court approved forms.

CJA 3-406. Budget and fiscal management

Proposed amendments incorporate the role of the Budget and Fiscal Management Committee and make other improvements to clarify the budget process.

CJA 3-104. Presiding judges

Proposed amendments require presiding judges to notify the appropriate state level administrator when a judge fails to submit a required case under advisement statement. If a judge fails to submit a required statement for two consecutive months, the state level administrator would be required to notify the Management Committee.

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

Rule 6-501. Reporting requirements for guardians and conservators.**Intent:**

To establish standards and procedures for annual reports and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:**(1) Definitions.**

(1)(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

(1)(B) "Interested person" means the respondent, if he or she is not a minor, the respondent's guardian and conservator, the respondent's spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code Section 75-5-406. If no person is an interested person, then interested person includes at least one of the respondent's closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code Section 75-5-207.

(1)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

(1)(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.

(1)(E) "Protected person" means a minor or an incapacitated person for whom the court appoints a guardian or a protected person for whom the court appoints a conservator.

(1)(F) "Report" means the inventory, accounting, or annual report on the status of the protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final accounting under Sections 75-5-210 and 75-5-419

(1)(G) "Respondent" means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (4) does not apply to the following:

(2)(A)(i) a guardian ~~certified licensed~~ under Utah Code Section 75-5-311(1)(a);

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit ~~licensed~~ under Utah Code Section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator.

(3)(B) Before the court enters an order of appointment, the proposed guardian or conservator must file a completed and verified Private Information Record form provided by the Administrative Office of the Courts.

(3)(C) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping. The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the protected person, if there is no successor, to the successor guardian or conservator, or to the personal representative of the protected person's estate.

~~**(5) Report forms.** Subject to the requirements of Paragraph (6):~~

~~(5)(A) forms substantially conforming to the Judicial Council approved forms are acceptable for content and format;~~

~~(5)(B) a corporate fiduciary may file its internal report or accounting; and~~

~~(5)(C) if the protected person's estate is limited to a federal or state program requiring an~~

~~annual accounting, the fiduciary may file a copy of that accounting.~~

(56) Information required in reports, Order on Review ~~cover sheet~~, and service.

(5)(A) Forms substantially conforming to the Judicial Council-approved forms are acceptable for content and format.

(5)(A)(i) A corporate fiduciary shall file its internal report or accounting, if any, as an attachment to the court approved form; and

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the fiduciary may file a copy of that accounting.

~~(56)(A)(B)~~ The annual report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period. Compliance with this provision Paragraph (54) is presumed sufficient, but the court may direct that a report or accounting be prepared with content and format as it deems necessary.

~~(56)(B)(C)~~ The annual report and annual accounting must include the Judicial Council-approved Order on Review of Guardian or Conservator Report ("Order on Review"), which must be filed as a proposed document.

~~(56)(C)(D)~~ The guardian, conservator, or both must serve a copy of the report, inventory, and accounting under Rule 5 of the Utah Rules of Civil Procedure on all interested persons. The annual report and annual accounting must include the following language at the top right corner of the first page, in bold type: **You have the right to object to the report or accounting within 28 days of service. If you do not object within that time, your objection may be waived.**

(67) Annual status reports.

~~(67)~~(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment. The status report must be in substantially the same form as the status report form approved by the Utah Judicial Council, including the required attachments. The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

~~(67)~~(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it.

(67)(C) If there is no conservator, the guardian must file the inventory and accounting required of a conservator under Utah Code Section 75-5-312.

(78) Inventory.

(78)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code Section 75-5-418. The inventory must be in substantially the same form as the inventory form approved by the Utah Judicial Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(78)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it.

(89) Annual accounting.

(89)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment. The accounting must be in substantially the same form as the accounting form approved by the Utah Judicial Council, including the required attachments. The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-403. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(89)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it.

(949) Final accounting.

(949)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment.

(949)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it.

(104) Objections.

(104)(A) If an interested person objects to a report or accounting, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report or accounting. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit

171 in the court record.

172
173 (104)(B) The objection must specify in writing the entries to which the person objects and state
174 the reasons for the objection.

175
176 (104)(C) An objection to a report or accounting may not contain a request to remove or
177 substitute the guardian or conservator. Any request for removal or substitution of the guardian
178 or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-
179 307 or 75-5-415.

180
181 (104)(D) If an objection is filed, the court must conduct a hearing unless the court determines
182 that a hearing is not necessary. If the court determines that a hearing is not necessary, the
183 court must issue a minute entry or order stating why a hearing is not necessary.

184
185 (104)(E) At the hearing, the court may require the guardian or conservator to supplement or
186 amend the report or accounting if the court determines there is good cause for the objection.

187
188 (104)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court
189 may deny the objection and approve the report or accounting.

190
191 (112) **Waiver.** If an interested person does not object to a report or accounting within 28 days of
192 service, the interested person waives any objection unless:

193 (112)(A) the objection relates to matters not fairly disclosed by the report or accounting; or

194
195 (112)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil
196 Procedure. If the request for an extension is made before the time has run, the court may
197 extend the time for good cause. If the request is made after the time has run, the court may
198 extend for excusable neglect.

199
200 (123) **Report approval.**

201 (123)(A) **Approval.** The court must examine and approve reports as required by Utah Code
202 sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the
203 court's knowledge notice has been given to every person entitled to notice, no objection has
204 been received, the report meets the requirements set forth by the report form, and the court
205 has not requested additional information or scheduled a hearing. Such approval does not
206 foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an
207 appeal time.

208
209 (123)(B) **Notice to interested persons.** When a court approves a report, the court must note
210 that approval on the Judicial Council-approved Order on Review and place the Order on
211 Review in the case file. When a court does not approve a report, the court must indicate on
212 the Order on Review, or in an order, the reasons for non-approval, any additional actions
213 required, and serve the Order on Review or order on all interested persons entitled to notice.

214

215 (1~~3~~⁴) **Report on a minor.** Under Utah Code Section 75-5-209, a person interested in the welfare
216 of a minor may petition the court for a report from the guardian on the minor's welfare or the
217 minor's estate. If the court orders a report from the guardian, the status report must be in
218 substantially the same form as the status report form for guardianships of adults approved by the
219 Utah Judicial Council, including the required attachments.

220

221 *Effective May November 1, 2022*

Rule 3-406. Budget and fiscal management.**Intent:**

To ~~develop and maintain~~accomplish the ~~policies and programs~~mission of the judiciary through sound fiscal management.

To provide ~~for~~ sound fiscal management ~~through the coordinated and cooperative effort of central and local authorities within~~by financially supporting both existing programs and working with the judiciary; to create new programs that enable the Courts to effectively provide an open, fair, efficient and independent system for advancement of justice under the law.

To maintain accountability for appropriated funds, and to maintain a balanced budget.

To cooperate with the Governor and the Legislature in managing the fiscal resources of the state.

Applicability:

This rule shall apply to the management of all funds appropriated by the state to the judiciary; as well as grant funds used by the judiciary.

Statement of the Rule:

(1) ~~Fiscal offices and programs and program directors established.~~ For purposes of fiscal management, the judiciary is divided into offices (which generally provide services to other areas within the judiciary) and ~~programs (which generally provide services to court patrons).~~ Each office and program budget is managed by a ~~program director~~budget manager who has approval authority from the Administrative Office of the Courts finance group ("AOC Finance") to authorize disbursements. This approval authority is granted based on AOC Finance's periodic review to ensure adequate separation of duties (as defined by generally accepted accounting principles) for each budget manager. The budget manager is designated by the state court administrator ~~and approved by their~~designee. AOC Finance periodically reports to the Budget and Fiscal Management Committee ("BFMC") on the adequacy of separation of duties. The budget of a geographic division shall be managed by the court executive subject to the general supervision of the program director.

(2) Budget management.

(2)(A) Responsibility of the ~~council~~Judicial Council ("Council"). The responsibility of the Council is to:

(2)(A)(i) cooperate with the Governor and the Legislature in managing the fiscal resources of the state;

(2)(A)(ii) assure that the budget of the judiciary remains within the limits of the appropriation set by the Legislature; and

(2)(A)(iii) allocate funds as required to maintain approved programs and to assure a balanced judicial budget.

(2)(B) Responsibility of the state court administrator. It is the responsibility of the state court administrator to:

(2)(B)(i) implement the directives of the Council;

(2)(B)(ii) ~~direct the management of~~manage the judiciary's budget, ~~including recommendations to reduce or redirect allocations under the direction of the Council and the BPMC;~~ and

(2)(B)(iii) negotiate on behalf of the Council the position of the judiciary with the executive and legislative branches.

(2)(C) Responsibility of ~~the administrative office.~~AOC Finance. It is the responsibility of ~~the administrative office~~AOC finance to:

(2)(C)(i) ~~clear all warrants and other authorizations for the~~ensure timely payment of all accounts payable ~~for the availability of funds;~~

(2)(C)(ii) monitor all expenditures and collections versus budget;

(2)(C)(iii) provide monthly ~~expenditure~~financial reports ~~by court to court executives, program directors, the state court administrator, Boards of Judges~~budget managers and the ~~Council~~BPMC; and

(2)(C)(iv) develop a manual of procedures ("Accounting Manual") to govern ~~the payment of accounts receivable, accounts payable, trust accounts, the audit thereof, and the audit thereof of administrative procedures generally.~~ The procedures shall be in conformity with generally accepted principles of budgeting and accounting and budget management shall, at a minimum, conform to the requirements of this Code and state law.

(2)(D) Responsibility of the ~~program directors.~~budget managers. Within their respective ~~programs~~areas of responsibility, it is the responsibility of the ~~program directors~~budget managers to:

(2)(D)(i) comply with the directives of the Council and the state court administrator;

(2)(D)(ii) administer the reduction or redirection of allocations;

(2)(D)(iii) monitor all expenditures and collections versus budget;

(2)(D)(iv) supervise and manage ~~court~~ budgets in accordance with the ~~manual of procedures~~ Accounting Manual; and

(2)(D)(v) develop recommendations for ~~fiscal~~ judicial priorities, ~~to be funded by the allocation of funds~~ legislature, and ~~the reduction changes to programs and/or redirection of offices that create efficiencies that reduce or redirect~~ allocations.

(2)(E) **Responsibility of court executives.** Within their respective courts, it is the responsibility of court executives to:

(2)(E)(i) comply with the directives of the Council, the state court administrator, ~~and the program director or designee~~, and to consult with the presiding judge and the individual judges of that jurisdiction concerning budget management;

(2)(E)(ii) develop work programs that encumber no more funds than may be allocated, including any reduction in allocation;

(2)(E)(iii) amend work programs as necessary to reflect changes in priorities, spending patterns, or allocation;

(2)(E)(iv) credit and debit accounts that most accurately reflect the nature of the planned expenditure;

(2)(E)(v) authorize expenditures;

(2)(E)(vi) prepare warrants and other authorizations for payment of accounts payable for submission to the ~~Administrative Office~~ AOC finance;

(2)(E)(vii) monitor all expenditures; and ~~revenues versus budget; and~~

(2)(E)(viii) develop recommendations for ~~fiscal~~ judicial priorities, ~~to be funded by the allocation of funds~~ legislature, and ~~the reduction changes to programs and/or redirection of offices that create efficiencies that reduce or redirect~~ allocations.

(2)(F) **Process.** After the legislative general session the ~~BFMC and~~ state court administrator shall consider all sources of funds and all obligated funds and develop a recommended spending plan that most closely achieves the priorities established by the Council at the prior annual planning meeting. The ~~state court administrator~~ BFMC shall ~~review~~ present the recommended spending plan ~~with the Management Committee and present it~~ to the ~~Judicial~~ Council for approval.

(3) **Budget development.**

(3)(A) **Responsibility of the Council.** It is the responsibility of the Council to:

(3)(A)(i) establish responsible ~~fiscal~~judicial priorities that best enable the judiciary to achieve the goals of its policies;

(3)(A)(ii) develop the budget of the judiciary based upon the needs of organizations and the priorities established by the Council;

(3)(A)(iii) communicate the budget of the judiciary to the executive and legislative branches; and

(3)(A)(iv) allocate funds to the ~~geographic divisions of courts~~budget managers in accordance with priorities established by the Council.

(3)(B) Responsibility of the juvenile, district, and appellate boards (“Boards”). It is the responsibility of the Boards to:

(3)(B)(i) develop recommendations for ~~funding~~judicial priorities; and

(3)(B)(ii) review, modify, and approve program budgets for submission to the ~~Council~~BFMC.

(3)(C) Responsibility of the state court administrator. It is the responsibility of the state court administrator to:

(3)(C)(i) negotiate on behalf of the Council the position of the judiciary with the executive and legislative branches; ~~and~~

(3)(C)(ii) implement the Council’s fiscal priorities and allocation of funds; ~~and~~

(3)(C)(iii) ~~work with the BFMC and the Boards of judges to manage the judiciary's budget, including recommending (1) judicial priorities to be funded by the legislature, (2) changes to programs and/or offices that create efficiencies that reduce or redirect allocations.~~

(3)(D) Responsibility of ~~the administrative office~~AOC Finance. It is the responsibility of ~~the Administrative Office~~AOC Finance to:

(3)(D)(i) develop a schedule for the timely completion of the budget process, including the completion of all intermediate tasks;

(3)(D)(ii) assist program ~~directors~~managers and court executives in the preparation of budget requests; and

(3)(D)(iii) compile the budget of the judiciary.

(3)(E) **Responsibility of the ~~program directors~~ budget managers.** Within their respective ~~programs~~ areas of responsibility, it is the responsibility of ~~program directors~~ budget managers to review, modify, and approve budget requests.

(3)(F) **Responsibility of court executives.** Within their respective courts, it is the responsibility of court executives to:

(3)(F)(i) work closely with presiding judges, judges, and staff to determine the needs of the organization; and

(3)(F)(ii) develop a budget request that adequately and appropriately meets those needs.

(3)(G) Process.

(3)(G)(i) Each Board of Judges, each court and committee and each department of the administrative office of the courts may develop, prioritize and justify a budget request. The courts shall submit their requests to the appropriate Board ~~of Judges~~. The committees and the departments of the AOC shall submit their requests to the state court administrator.

(3)(G)(ii) The Boards shall consolidate and prioritize the requests from the courts ~~and the requests originated by the Board. The state court administrator shall consolidate and prioritize the requests from the~~ committees and departments. AOC Finance shall consolidate all of the Boards' prioritized lists for review by the BFMC.

(3)(G)(iii) The ~~state court administrator~~ BFMC shall review and analyze all prioritized budget requests and develop a recommended budget request and funding plan. The ~~state court administrator~~ BFMC shall review the analysis and the recommended budget request and funding plan with the Council.

(3)(G)(iv) At its annual planning meeting the Council shall consider all prioritized requests and the analysis and recommendations of the ~~state court administrator~~ BFMC and approve a prioritized budget request and funding plan for submission to the governor and the legislature.

(4) General provisions.

(4)(A) Appropriations dedicated by the Legislature or allocations dedicated by the Council shall be expended in accordance with the stated intent.

(4)(B) All courts and the ~~Administrative Office~~ AOC shall comply with the provisions of state law and the ~~manual of procedures~~ Accounting Manual.

(4)(C) Reductions in allocations, reductions in force, and furloughs may be ordered by the state court administrator with notice to the Council. In amending the work program to reflect a budget cut, reductions in force and furloughs shall be used only when absolutely necessary to maintain a balanced budget. If reductions in force are necessary, they shall be made in accordance with approved personnel procedures. If furloughs are necessary, they should occur for no more than two days per pay period.

Effective: ~~5/1/2020~~ May 1, 2023

Rule 3-104. Presiding judges**Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:**(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.**(2)(A) Court en banc.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) **Administrative responsibilities and authority of presiding judge.**

(3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) **Coordination of judicial schedules.**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges.

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

(3)(D) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) Outside agencies and the media.

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) Docket management and case and judge assignments.

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

151 (3)(G) **Court executives.**

152
153 (3)(G)(i) The presiding judge shall review the proposed appointment of the court
154 executive made by the State Court Administrator and must concur in the
155 appointment before it will be effective. The presiding judge shall obtain the
156 approval of a majority of the judges in that jurisdiction prior to concurring in the
157 appointment of a court executive.

158
159 (3)(G)(ii) The presiding judge for the respective court level and the state level
160 administrator shall jointly develop an annual performance plan for the court
161 executive.

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163 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding
164 judge in the preparation of an evaluation of the court executive's performance for
165 the previous year, also taking into account input from all judges in the district.

166
167 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the
168 court executive, including coordination of annual leave.

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170 (3)(G)(v) Pursuant to Council policy and the direction of the state level
171 administrator, the court executive has the responsibility for the day-to-day
172 supervision of the non-judicial support staff and the non-judicial administration of
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,
174 shall coordinate with the court executive on matters concerning the support staff
175 and the general administration of the court including budget, facility planning,
176 long-range planning, administrative projects, intergovernmental relations and
177 other administrative responsibilities as determined by the presiding judge and the
178 state level administrator.

179
180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
181 courtrooms and facilities.

182
183 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in
184 consultation with the presiding judge, shall:

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186 (3)(I)(i) coordinate the compilation of management and statistical information
187 necessary for the administration of the court;

188
189 (3)(I)(ii) establish policies and procedures and ensure that court personnel are
190 advised and aware of these policies;

191
192 (3)(I)(iii) approve proposals for automation within the court in compliance with
193 administrative rules.

194
195 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall
196 oversee the development of the budget for the court. In contract sites, the court
197 executive shall supervise the preparation and management of the county budget for the
198 court on an annual basis and in accordance with the Utah Code.

199
200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court
201 fails to comply with a reasonable administrative directive of the presiding judge,

interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement.

(3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows:

(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;

(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.

A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.

The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the [Management Committee Council](#).

(3)(L)(v) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If a judge fails to submit a statement for two consecutive months, the state level administrator shall notify the [Management Committee Council](#).

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective May/November 1 June 28, 202_1