

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES**

Webex video conferencing
April 7, 2023: 12 pm

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>	•		Keri Sargent Nathanael Player Tucker Samuelsen Meredith Mannenbach Allison Barger Shonna Thomas Stacy Haacke STAFF: Keisa Williams Brody Arishita Minhvan Brimhall
Judge Suchada Bazzelle		•	
Judge Augustus Chin	•		
Judge Michael DiReda	•		
Judge James Gardner	•		

(1) Welcome and approval of minutes:

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the March 3, 2023 meeting. With no changes, Judge Gardner moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

(2) CJA 4-202.02. Records classification:

The proposed amendments update statutory references (lines 176, 206, 211, 241, and 425) and make three substantive changes.

Court Commissioner Complaint records (lines 308-309):

Under [CJA 3-201.02](#), the Court Commissioner Conduct Committee reviews and investigates conduct complaints against court commissioners. The process mirrors the Judicial Conduct Commission process, with the Judicial Council acting in a similar role to the Supreme Court. In practice, CCCC records are treated as confidential, but subsection (1)(E) refers to rule 4-202.02. Currently, CCCC records are not classified in 4-202.02, making them public by default under 4-202.02(1). The proposed amendment would classify CCCC records as “private,” except for public censures by the Judicial Council.

Safeguarded records (lines 434-436):

A petitioner in a protective order or stalking injunction case may request that their contact information be safeguarded under paragraph (8)(A). Currently, the only way for those petitioners to also safeguard their contact information in domestic cases is by filing a motion under [CJA 4-202.04](#). The proposed amendment would safeguard contact information in domestic cases “upon request,” if the individual’s contact information has been safeguarded in a protective order or stalking injunction action or in the cases listed under (8)(B).

Proposed amendments to the safeguarded request form (attached) would allow petitioners to submit their (8)(C) requests using the same method as (8)(A) and (8)(B) requests, avoiding confusion and the expense of filing a 4-202.04 motion.

Name / sex designation changes (lines 191-197 and 260-261):

The proposed amendments are in response to [S.B. 93](#) (effective March 23rd), a bill creating new statutory provisions to govern the process for changing a sex designation on a birth certificate, with special provisions for minors (beginning at line 175 in the bill). Currently, court records associated with sex designation changes are public, unless otherwise ordered. Most often, sex designation changes are made in conjunction with a name change. Name change records are public, with notice and “open court” provisions found in Section [42-1-2](#) (unchanged in S.B. 93). The bill specifies that the court must “close the hearing on a petition for a sex designation change” (for an unemancipated child at least 15 and 1/2 years old), but does not mention the classification of other records in those cases.

The proposed amendments would classify:

1. sex designation records for both minors and adults as “private;”
2. name change records for both minors and adults as “public,” and
3. records in cases involving both a name change and a sex designation change, for minors and adults, as “private” (with a few exceptions).

There is some question as to whether #3 is inconsistent with the code, or at least, would make it difficult for the court to meet the “upon proof in open court” requirement in 42-1-2 for the name change portion of the case – one purpose for which has been to protect against fraud.

At the same time, vulnerable populations face a significant risk of harm should their sex designation change be made public. Rule [4-202](#) recognizes the delicate balance courts must strike by providing a list of interests served by both open and closed court records. And under Rule [4-202.04\(6\)](#), in deciding whether to classify a record as non-public, judges may consider “any relevant factor, interest, or policy, including but not limited to the interests described in rule 4-202...”

Following a discussion, the committee determined that applying a “private” classification to cases involving both name and sex designation changes is not inconsistent with the code. The committee made minor edits for consistency in language throughout the rule.

With no further discussion, Judge Gardner moved to send CJA 4-202.02, as amended, to the Judicial Council with a recommendation that it be approved as final on an expedited basis with an effective date of April 24, 2023, followed by a 45-day comment period. Judge DiReda seconded the motion. The motion passed unanimously.

(3) CJA 4-202.03. Records access:

CJA 4-202.05. Request to access an administrative record; research; request to classify an administrative record; request to create an index.

The proposed amendments align the rules with Sections [77-40a-403\(2\)\(b\)](#) and [77-40a-404](#), identifying individuals and entities who may access expunged records. Other amendments are non-substantive and intended to streamline the rules.

The committee noted that the rule is more restrictive than the code. Under the code, expunged records “may be released or viewed by” certain individuals ([77-40a-404](#)) and authorized individuals and entities may “receive information contained in expunged records” ([77-40a-403](#)). The rule limits access to certified copies of the expungement order and the case history. Ms. Williams recommended keeping the rule more restrictive for now, in light of the sensitivity of expunged records. It’s unclear what effect this change may have on requests and access. Individuals/entities may request more than just certified copies and case histories by making a formal records

request, at which point the reviewing custodian can take a more careful look at whether the individual/entity truly does qualify under the code. That recommendation may change once we have a better idea of how this works in practice.

Following a discussion, the committee was comfortable keeping the more restrictive language in the rule and made minor, non-substantive edits throughout.

With no further discussion, Judge Gardner moved to forward CJA 4-202.03 and 4-202.05 to the Judicial Council with a recommendation that the rules be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

(4) CJA 4-404. Jury selection and service

The proposed amendments add the option to email juror qualification forms and summonses to prospective jurors. If a qualification form is returned by the email provider as “undeliverable,” the form would then be mailed. Emailing documents would save processing time and reduce mailing costs. In the 3rd district alone, 10,000 jury qualification forms are sent each month.

Following a discussion, the committee made the following changes:

- *Paragraph (6)(C)(iii) changed to begin: “The summons shall be . . .”.*
- *Paragraph (6)(C)(ii) changed to: “The summons may be served by first class mail or email to the address provided on the juror qualification form or by telephone.”*

With no further discussion, Judge Gardner moved to forward rule CJA 4-404 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

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

At its January meeting, PP&T considered the attached public comments regarding rule 6-501. Following discussion, PP&T sent the rule back to the Probate Subcommittee, asking for a review of the public comments and the Order on Review court form.

The commenters questioned whether there should be an exception to using the court forms for corporate fiduciaries. The Probate Subcommittee disagrees, but recognizes a need to make the filing requirements and use of forms more clear. Specifically, the proposed amendments incorporate what was paragraph (5) into paragraph (6) and make minor language changes to provide clarity throughout the rule as it relates to filing requirements. The changes made to paragraph (2) mirror the language found in the statute, as the term “licensed” is not found in the statute.

The committee made minor edits to the rule for consistency and changed “Utah Judicial Council” to “Judicial Council” or “Council” as those terms are already defined in the rule. Following a discussion of the public comments, the committee made no additional amendments.

With no further discussion, Judge Gardner moved to forward rule CJA 6-501, as amended, to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

Technology report/proposals:

The Technology Advisory Subcommittee met and has agreed on a standard audio form to be used statewide, as well as a standard Webex form. Mr. Arishita hopes to be able to provide an overview of the form to Policy, Planning, and Technology within the next two months. At its next meeting, the advisory subcommittee will be working with Karl Sweeney to discuss increasing various fees outlined in rule. Todd Eaton is working with Bryson King on amendments to the records retention rule. The subcommittee also plans to create standards for device usage and bandwidth filtering.

Old Business/New Business: None

Keri Sargent provided a follow-up report on filing fee collection from pro se email filings. Judicial assistants report that pro se litigants are better at paying filing fees. They have a harder time collecting fee payments from attorneys.

Adjourn: With no further items for discussion, Judge Chin moved to adjourn the meeting. Judge Gardner seconded the motion. The motion was approved. The meeting adjourned at 1:01 PM. The next meeting will be held on May 5, 2023 at 9 AM via Webex video conferencing.