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Rule 50. Presence at hearings.

(a) In abuse, neglect, and dependency cases the court shall exclude all persons who do not have a direct interest in the proceedings except as provided for by 78-3a-115 and 78-3a-115.1. If a motion is made to deny any person access to any part of a hearing, the parties to the hearing, including the person challenged, may address the issue by proffer, but are not entitled to an evidentiary hearing. A person denied access to a proceeding may petition the Utah Court of Appeals under Utah Rule of Appellate Procedure 19. Proceedings shall not be stayed pending appeal. As provided for by 78-3a-116, a person may file a petition requesting a copy of a record of the proceedings, setting forth the reasons for the request. Upon a finding of good cause by the Court and payment of a fee, the person shall receive an audio recording of a proceeding. The Court may place under seal information received in an open proceeding.

(b) In delinquency cases the court shall admit all persons who have a direct interest in the case and may admit persons requested by the parent or legal guardian to be present.

(c) In delinquency cases in which the minor charged is 14 years of age or older, the court shall admit any person unless the hearing is closed by the court upon findings on the record for good cause if:

(1) the minor has been charged with an offense which would be a felony if committed by an adult; or

(2) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult and the minor has been previously charged with an offense which would be a misdemeanor or felony if committed by an adult.

(d) If any person, after having been warned, engages in conduct which disrupts the court, the person may be excluded from the courtroom. Any exclusion of a person who has the right to attend a hearing shall be noted on the record and the reasons for the exclusion given. Counsel for the excluded person has the right to remain and participate in the hearing.

(e) Videotaping, photographing or recording court proceedings shall be as authorized by the Code of Judicial Administration.

11-2003  
Final Approval.

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Rule 7. Warrants for immediate custody of minors; grounds; execution of warrants; search warrants.

(a) The issuance and execution of a warrant in delinquency cases is governed by Title 77, Chapter 7, Arrest, and by Section 78-3a-112 and Section 78-3a-113.

(b) After a petition is filed, a warrant for immediate custody of a minor may be issued if the court finds from the facts set forth in an affidavit filed with the court or in the petition that there is probable cause to believe that:

(b)(1) the minor has committed an act which would be a felony if committed by an adult;

(b)(2) the minor has failed to appear after the minor or the parent, guardian or custodian has been legally served with a summons;

(b)(3) there is a substantial likelihood the minor will not respond to a summons;

(b)(4) the summons cannot be served and the minor's present whereabouts are unknown;

(b)(5) the minor seriously endangers others and immediate removal appears to be necessary for the protection of others or the public; or

(b)(6) there are reasonable grounds to believe that the minor has run away or escaped from the minor's parent, guardian or custodian.

(c) A warrant for immediate custody of a minor may be issued if the court finds from the affidavit that the minor is under the continuing jurisdiction of the court and probable cause to believe that the minor:

(c)(1) has left the custody of the person or agency vested by the court with legal custody and guardianship without permission; or

(c)(2) has violated a court order.

(d) A warrant for immediate custody shall be signed by a court and shall contain or be supported by the following:

(d)(1) an order that the minor be taken to the detention or shelter facility designated by the court at the address specified pending a hearing or further order of the court;

(d)(2) the name, date of birth and last known address of the minor;

(d)(3) the reasons why the minor is being taken into custody;

(d)(4) a time limitation on the execution of the warrant;

(d) (5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and

(d) (6) the date, county and court location where the warrant is being issued.

(d) (7) On verbal request from a probation officer or other authorized individual a warrant for custody may be issued telephonically during non-business hours or under exigent circumstances when it appears necessary for the protection of the community or the juvenile and shall be supported by an affidavit from the requesting authority the next court business day.

(e) Search warrants, with an order of immediate custody, may be issued in the manner provided by law.

(f) A peace officer who brings a minor to a detention facility pursuant to a court order for immediate custody shall so inform the person in charge of the facility and the existence of such order shall require the minor's immediate admission. A minor so admitted may not be released without court order.

(g) This rule shall not limit the statutory authority of a probation officer to take a minor who has violated a condition of probation into custody.

(h) The issuance and execution of a warrant in dependency, neglect and abuse cases is governed by Utah Code Ann. 78-3a-106, ~~Section 78-3a-112, and~~ Section 78-3a-113. ~~and~~  
~~Section 62A-4a-202.1~~

~~(i) A warrant for immediate custody of a minor may be issued if the court finds from the facts set forth in an affidavit filed with the court that there is probable cause to believe that:~~

~~(1) A child is being ill-treated by his parent, guardian, or custodian, or is being detained, ill-treated, or harbored against the desires of his parent, guardian, or custodian, in any place within the jurisdiction of the court.~~

~~(i)~~ (i) A warrant for immediate custody shall be signed by a court and shall contain or be supported by the following:

(i) (1) an order that the minor be taken to the detention or shelter facility or other location designated by the court at the address specified pending a hearing or further order of the court;

(i) (2) the name, date of birth and last known address of the minor;

(i)(3) the reasons why the minor is being taken into custody;

(i)(4) a time limitation on the execution of the warrant;

(i)(5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and

(i)(6) the date, county and court location where the warrant is being issued.

(i)(7) On verbal request from a state officer, peace officer, or child welfare worker or other authorized individual a warrant for custody may be issued telephonically when it appears necessary for the protection of the juvenile. Telephonic warrants shall be supported by an affidavit from the requesting authority the next court business day.

~~(k)~~ (j) Search warrants, with an order of immediate custody, may be issued in the manner provided by law.

~~(k)~~ (k) A peace officer who brings a minor to a detention or shelter facility pursuant to a court order for immediate custody shall so inform the person in charge of the facility and the existence of such order shall require the minor's immediate admission. A minor so admitted may not be released without court order.

(l) Return of service on a warrant shall be executed within 72 hours unless otherwise ordered by the Court.

**Rule 14. Reception of referral; preliminary determination.**

**(a) Delinquency cases.**

(1) A law enforcement officer or any other person having knowledge of or reason to believe facts that would bring a minor within the court's jurisdiction for delinquency may refer the minor to the court by submitting a written report and a request for a petition to the clerk, on forms prescribed by the court. An intake officer of the probation department shall make a preliminary determination, with the assistance of the prosecuting attorney if necessary, as to whether the facts reported are legally sufficient to give the court jurisdiction. If the facts appear legally sufficient such officer shall make a preliminary inquiry in accordance with standards prescribed by the court and Rule 15 to determine whether the interests of the public or the minor require further judicial action to be taken. If it is so determined, such officer may file a petition on behalf of the referring officer or person or may refer the matter to the prosecuting attorney for preparation of the petition.

(2) If the intake officer refuses after a demand by the complainant to file a petition, the complainant shall be informed of the reasons for the refusal and advised that he may submit the facts of the alleged delinquency in writing to the prosecuting attorney who shall determine whether a petition shall be filed.

**(b) Cases involving neglect, dependency or abuse.** Pursuant to Utah Code, Title 62A, Chapter 4a, complaints and reports involving the neglect, abuse or dependency of minors shall be directed to the nearest office of the Division of Child and Family Services for investigation, which agency may, with the assistance of the attorney general, file a petition with the court to

initiate judicial proceedings.

(c) Coordination of cases pending in district court and juvenile court.

(1) Criminal and delinquency cases; Notice to the court.

(A) In a criminal case all parties have a continuing duty to notify the court of a delinquency case pending in juvenile court in which the defendant is a party.

(B) In a delinquency case all parties have a continuing duty to notify the court:

(i) of a criminal or delinquency case in which the respondent or the respondent's parent is a party; and

(ii) of an abuse, neglect or dependency case in which the respondent is the subject of the petition or the respondent's parent is a party.

(C) The notice shall be filed with a party's initial pleading or as soon as practicable after becoming aware of the other pending case. The notice shall include the case caption, file number and name of the judge or commissioner in the other case.

1 **Rule 15. Preliminary inquiry; informal adjustment without petition.**  
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3 (a) If the minor controverts the allegations in the referral or upon request by the minor, the effort  
4 at non-judicial adjustment shall terminate.  
5

6 (b) In attempting to determine whether the interests of the minor or the public require that a  
7 petition be filed, the probation intake officer may conduct one or more interviews with the minor  
8 and at least one parent, guardian or custodian and may invite the referring party and the victim, if  
9 any, to attend or otherwise seek further information from them. Attendance at any such interview  
10 shall be voluntary and the probation intake officer may not compel the disclosure of any  
11 information or the visiting of any place. A non-judicial adjustment of the case shall not be  
12 attempted if the offense or condition alleged in the referral report as a basis for court jurisdiction  
13 is denied by the minor.  
14

15 (c) In any such interview, the minor and the minor's parent, guardian or custodian must be  
16 advised that the interview is voluntary, that they have a right to have counsel present to represent  
17 the minor, that the minor has the right not to disclose any information, and that any information  
18 disclosed that could tend to incriminate the minor cannot be used against the minor ~~in court on~~  
19 the issue of guilt or innocence to prove whether the minor committed the offense alleged in the  
20 referral but may be used as part of a dispositional recommendation to the court.  
21

22 (d) If the probation intake officer concludes on the basis of the preliminary inquiry that  
23 non-judicial adjustment is appropriate and is authorized in such cases by the court, such officer  
24 may seek agreement with the minor and the parent, guardian or custodian to a proposed  
25 non-judicial adjustment. If such agreement is reached and the terms and conditions agreed upon  
26 are satisfactorily complied with by the minor and the minor's parent, guardian or custodian, the  
27 case shall be closed without petition. Such resolution of the case shall not be deemed an  
28 adjudication of jurisdiction of the court and shall not constitute an official record of juvenile  
29 court action or disposition. A non-judicial adjustment may be considered by the probation intake  
30 officer in a subsequent preliminary inquiry and by the court for purposes of disposition only  
31 following adjudication of a subsequent delinquency involving the same minor.  
32

33 (e) Attempts to affect non-judicial adjustment of a case shall not extend beyond 60 days without  
34 authorization by the court, and then for no more than an additional 60 days.  
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**Rule 19. Responsive pleadings and motions.**

- (a) (a) If the petition is not resolved at pretrial, an answer to a buse, neglect, and dependency petitions, petitions to terminate parental rights, or petitions for a change of custody must be filed ten days after pretrial or twenty-five days after service of the petition whichever comes first. The answer may be made orally at a pretrial hearing but otherwise must comply with Utah R. Juv. P. 34. Default against a party who fails to appear in person or by counsel at pretrial, or who fails to file an answer may be entered pursuant to Utah R. Juv. P. 34.
- (b) Before answering, the respondent may move to dismiss the petition as insufficient to state a claim upon which relief can be granted. The court shall hear all parties and rule on said motion before requiring a party to answer.
- (c) A party may file a written pleading or motion concerning the allegations of the petition before or at the hearing. Such pleading or a true and complete copy thereof shall be made available to the other parties of record. At the request of a party or on the court's own motion, the court shall set the matter for hearing to allow either party to respond to the issues raised in the pleading or motion.
- (d) The court shall entertain and hear motions on any matter properly petitioned before it, and such motion practice shall be conducted according to the pertinent provisions of Utah Rules of Civil Procedure 7 and 12.
- (e) Decisions on motions filed without a request for a hearing or by stipulation of the parties shall be rendered by the court without a hearing unless the court otherwise orders, in which event the clerk shall set a date and time for the hearing and notify the parties of record. Any party requesting a hearing must do so within 5



days of receipt of the motion or a hearing will be deemed waived.

- (f) In those cases where a hearing is granted, a courtesy copy of the motion, memorandum of points and authorities and all documents supporting or opposing the motion shall be delivered to the judge hearing the matter at least two working days before the date set for hearing. Copies shall be clearly marked as courtesy copies and indicate the date and time of the hearing.
- (g) All dispositive motions shall be heard at least fourteen days before the scheduled trial date unless otherwise ordered by the court. No dispositive motions shall be heard after that date without leave of the court.
- (h) If a hearing has been requested and the non-moving party fails to file a memorandum in opposition, the moving party may withdraw the request or the court on its own motion may strike the request and decide the motion without oral argument.
- (i) Motion for expedited hearing.
  - (1) A party may request an expedited hearing on any motion or petition filed with the court by filing a verified motion. The verified motion shall state with particularity the issues to be considered at the expedited hearing, the reasons an expedited hearing is necessary, and what efforts, if any, have been made to notify the other party of the request for expedited hearing.
  - (2) The court may grant a motion for expedited hearing on an ex parte basis.
  - (3) A motion for expedited hearing shall be granted if the facts alleged in the motion demonstrate good cause for an expedited hearing and otherwise appears appropriate.

- (4) If the court grants the motion for expedited hearing, the hearing shall be set within ten days of the order.
- (5) If the motion for an expedited hearing is granted, the moving party shall serve notice of the hearing upon all interested parties.
- (j) Requests for review hearings or modification of court custody orders by agents of the Department of Human Services or one of its divisions, following the adjudication of a petition in which the department or division is a party, or by any other person or agency who is a party of record, shall be by written motion. Such motions shall state with particularity the legal basis for the motion and relief sought.
- (k) In matters certified in the juvenile court from the district court, pleadings and motions shall be governed by the Utah Rules of Civil Procedure.
- (l) In delinquency, traffic and adult criminal matters, motion practice shall be governed by the Utah Rules of Criminal Procedure.

**Rule 37. Protective orders.**

(a) Protective order proceedings may be commenced as an independent action by filing a petition. ~~A protective order may also be sought in a petition filed in the interest of an alleged child victim of abuse, threatened abuse, or domestic violence.~~ If an immediate ex parte protective order is requested pending a hearing, the petition or an accompanying affidavit shall set forth the facts constituting good cause for issuance of the ex parte order.

(b) If the petitioner is the agent of a public or private agency, including a law enforcement agency, the petition shall set forth the agent's title and the name of the agency that the petitioner represents.

(c) Petitions for protective orders by a public agency shall not be accepted by the clerk unless reviewed and approved by the attorney for the public agency, whose office shall represent the petitioner in such cases.

(d) The petitioner, if a private person or agency, and the respondent may be represented by retained counsel. Counsel may be appointed by the court for an indigent respondent who is a parent, guardian or custodian of the child alleged to be abused or threatened with abuse. If the court finds in the hearing that the allegations of the petition have been established, the court may assess petitioner's costs and attorney fees against the respondent. If the court finds that the petition is without merit, the respondent's costs and attorneys fees may be assessed against petitioner.

(e) If an ex parte order has been issued, the hearing must be held within 20 days excluding Saturdays, Sundays and legal holidays ~~unless the respondent stipulates to a longer period of time.~~

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Inserted: Child

**Inserted:** Child Protective order proceedings are governed by 78-3h-101 et seq.

**Comment:** Amended to conform to 78-3h-102(1).

**Inserted:** Any interested person may file a petition for a protective order on behalf of a child who has been abused, sexually abused, neglected, or abandoned or is in imminent danger of being abused, sexually abused, neglected, or abandoned. The petitioner shall first make a referral to the division.

**Comment:** 1.801" the court shall schedule a hearing within 20 days after the ex parte determination."

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### **Rule 37. Child Protective orders.**

(a) Child Protective order proceedings are governed by 78-3h-101 et seq. Protective order proceedings may be commenced as an independent action by filing a petition. Any interested person may file a petition for a protective order on behalf of a child who has been abused, sexually abused, neglected, or abandoned or is in imminent danger of being abused, sexually abused, neglected, or abandoned. The petitioner shall first make a referral to the division. If an immediate ex parte protective order is requested pending a hearing, the petition or an accompanying affidavit shall set forth the facts constituting good cause for issuance of the ex parte order.

(b) If the petitioner is the agent of a public or private agency, including a law enforcement agency, the petition shall set forth the agent's title and the name of the agency that the petitioner represents.

(c) Petitions for protective orders by a public agency shall not be accepted by the clerk unless reviewed and approved by the attorney for the public agency, whose office shall represent the petitioner in such cases.

(d) The petitioner, if a private person or agency, and the respondent may be represented by retained counsel. Counsel may be appointed by the court for an indigent respondent who is a parent, guardian or custodian of the child alleged to be abused or threatened with abuse. If the court finds in the hearing that the allegations of the petition have been established, the court may assess petitioner's costs and attorney fees against the respondent. If the court finds that the petition is without merit, the respondent's costs and attorneys fees may be assessed against petitioner.

(e) If an ex parte order has been issued, the hearing must be held within 20 days excluding Saturdays, Sundays and legal holidays.

1 **Rule 45. Pre-disposition reports and social studies.**  
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3 (a) Unless waived by the court, a pre-disposition report shall be prepared in all proceedings  
4 which result in the filing of a petition. The pre-disposition report shall be deemed waived, unless  
5 otherwise ordered, in all traffic, fish and game and boating cases, and other bailable offenses.  
6 The report shall conform to the requirements in the Code of Judicial Administration.  
7

8 (b) In delinquency cases, investigation of the minor and family for the purpose of preparing the  
9 pre-disposition report shall not be commenced before the allegations have been proven without  
10 the consent of the parties.  
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12 (c) The pre-disposition report shall not be submitted to or considered by the judge before the  
13 adjudication of the charges or allegations to which it pertains. If no pre-disposition report has  
14 been prepared or completed before the dispositional hearing, or if the judge wishes additional  
15 information not contained in the report, the dispositional hearing may be continued for a  
16 reasonable time to a date certain.  
17

18 (d) For the purpose of determining proper disposition of the child and for the purpose of  
19 establishing the fact of neglect or dependency, written reports and other material relating to the  
20 child's mental, physical, and social history and condition may be received in evidence and may  
21 be considered by the court along with other evidence. The court may require that the person who  
22 wrote the report or prepared the material appear as a witness if the person is reasonably  
23 available.  
24

25 (e) The pre-dispositional report and social studies shall be ~~available for inspection and copying~~  
26 by provided to the minor's counsel, the prosecuting attorney, the guardian ad litem, and counsel  
27 for the parent, guardian or custodian of the minor at least two days prior to the dispositional  
28 hearing. When the minor or the minor's parent, guardian or custodian are not represented by  
29 counsel, the court may limit inspection of reports by the minor or the minor's parent, guardian or  
30 custodian if the court determines it is in the best interest of the minor to do so.  
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**Rule 46. Disposition hearing.**

(a) Disposition hearings may be separate from the hearing at which the petition is proved or may follow immediately after that portion of the hearing at which the allegations of the petition are proved. Disposition hearings shall be conducted in an informal manner to facilitate the opportunity for all participants to be heard.

(b) The court may receive any information that is relevant to the disposition of the case including reliable hearsay and opinions. Counsel for the parties are entitled to examine under oath the person who prepared the pre-disposition report if such person is reasonably available. The parties are entitled to compulsory process for the appearance of any person, including character witnesses, to testify at the hearing. A minor's parent or guardian may address the court regarding the disposition of the case, and may address other issues with the permission of the court.

(c) After the disposition hearing, the court shall enter an appropriate order. After announcing its order, the court shall advise any party who is present and not represented by counsel of the right to appeal the court's decision.

(d) The disposition order made and entered by the court shall be reduced to writing and a copy mailed or furnished to the minor and parent, guardian or custodian, or counsel for the minor and parent, guardian or custodian, if any, the prosecuting attorney, the guardian ad litem, and any agency or person affected by the court's order.

(e) Disposition of a petition alleging abuse, neglect, or dependency of a minor shall be conducted also in accordance with Section 78-3a-118, Section 78-3a-310, and Section 78-3a-311.

Rule 47. Reviews and modification of orders.

(a) Reviews.

(1) At the time of disposition in any case wherein a minor is placed on probation, under protective supervision or in the legal custody of an individual or agency, the court shall also order that the individual supervising the youth or the placement, submit a written report to the court at a future date and appear personally, if directed by the court, for the purpose of a court review of the case. If a date certain is not scheduled at the time of disposition, notice by mail of such review shall be given by the petitioner, if the review is a mandatory review, or by the party requesting the review to the supervising agency not less than 5 days prior to the review. Such notice shall also be given to the guardian ad litem, if one was appointed.

(2) No modification of a prior dispositional order shall be made at a report review that would have the effect of further restricting the rights of the parent, guardian, custodian or minor, unless the affected parent, guardian custodian or minor waives the right to a hearing and stipulates in open court or in writing to the modification. If a guardian ad litem is representing the minor, the court shall give a copy of the report to the guardian prior to the report review.

(b) Review hearings.

(1) Any party in a case subject to review may request a review hearing. The request must be in writing and the request shall set forth the facts believed by the requesting party to warrant a review by the court. If the court determines that the alleged facts, if true, would justify a modification of the dispositional order, a review hearing shall be scheduled with notice, including a copy of the request, to all other parties. The court may schedule a review hearing on its own motion.

(2) The court may modify a prior dispositional order in a review hearing upon the stipulation of all parties and upon a finding by the court that such modification would not be contrary to the best interest of the minor and the public.

(3) The court shall not modify a prior order in a review hearing that would further restrict the rights of the parent, guardian, custodian or minor if the modification is objected to by any party prior to or in the review hearing. The court shall schedule the case for an evidentiary hearing and require that a motion for modification be filed with notice to all parties in accordance with Section 78-3a-903.

(4) Any individual, agency or institution vested with temporary legal custody or guardianship must make a motion for a review hearing at the expiration of 18 months from the date of the placement order as provided in Utah Code Ann. §78-3a-516.

(5) All cases which require periodic review hearings under Title 78, Chapter 3a shall be scheduled for court review not less than once every six months from the date of disposition.

(c) Disposition reviews. Upon the petition of any agency, individual or institution vested with legal custody or guardianship by prior court order, the court shall conduct a review hearing to determine if the prior order should remain in effect. Notice of the hearing, along with a copy of the petition, must be provided to all parties not less than 5 days prior to the hearing.

(d) Review of a case involving abuse, neglect, or dependency of a minor shall be conducted also in accordance with Section 78-3a-118, Section 78-3a-312, and Section 78-3a-313.

(e) Intervention plans.

(1) In all cases where the disposition order places temporary legal custody or guardianship of the youth with an individual, agency, or institution, a proposed intervention plan shall be submitted by the probation department when probation has been ordered; by the agency having custody or guardianship; or by the agency providing protective supervision, within 30 days following the date of disposition. This intervention plan shall be updated whenever a substantial change in conditions or circumstances arise.

(2) In cases where both parents have been permanently deprived of parental rights, the intervention plan shall identify efforts made by the child placing agency to secure the adoption of the youth and subsequent review hearings held until the youth has been adopted or permanently placed.



(f) Progress reports.

(1) A written progress report relating to the intervention plan shall be submitted to the court and all parties by the agency, which prepared the intervention plan at least two working days prior to the review hearing date.

(2) The progress report shall contain the following:

- (i) A review of the original conditions, which invoked the court's jurisdiction.
- (ii) Any significant changes in these conditions.
- (iii) The number and types of contacts made with each family member or other person related to the case.
- (iv) A statement of progress toward resolving the problems identified in the intervention plan.
- (v) A report on the family's cooperation in resolving the problems.
- (vi) A recommendation for further order by the court.

(g) In substantiation proceedings, a party may file a motion to set aside a default judgment or dismissal of a substantiation petition for failure to appear, within thirty days after the entry of the default judgment or dismissal. On motion and upon such terms as are just, the court may in the furtherance of justice relieve a party from a default judgment or dismissal if the court finds good cause for the party's failure to appear. The filing of a motion under this Subdivision does not affect the finality of a judgment or suspend its operation.

## RULE 52. APPEALS

(a) An appeal may be taken from the juvenile court to the Court of Appeals from a final judgment, order, or decree, except as otherwise provided by law, by filing a Notice of Appeal with the clerk of the juvenile court within 30 days after the entry of the judgment, order, or decree appealed from. In non-delinquency cases, a Notice of Appeal of a party who is not a minor must be signed by each party himself or herself.

(b) An appeal from an interlocutory order may be sought by any party by filing a petition for permission to appeal from the interlocutory order with the Court of Appeals within 20 days after the entry of the order of the juvenile court.

(c) The Utah Rules of Appellate Procedure shall govern the appeal process, including preparation of the record and transcript.

(d) No separate order of the juvenile court directing a county to pay transcript costs is required to file a Request for Transcript in an appeal by an impecunious party who was represented during the juvenile court proceedings by court-appointed counsel.

(e) A party claiming entitlement to court-appointed counsel has a continuing duty to inform the court of any material changes that affect indigent status. If at any stage in the trial or appellate proceedings the court makes a finding that a party does not qualify, or no longer qualifies for indigent status, the court may order the party to reimburse the county or municipality for the reasonable value of the services rendered, including all costs.

### RULE 53. APPEARANCE AND WITHDRAWAL OF COUNSEL

(a) Appearance. An attorney shall appear in proceedings by filing a written notice of appearance with the court or by appearing personally at a court hearing and advising the court that he is representing a party. Once an attorney has entered an appearance in a proceeding, the attorney shall receive copies of all notices served on the parties.

(b) Withdrawal.

(1) Retained Counsel. Consistent with the Rules of Professional Conduct, ~~an retained~~ attorney may withdraw as counsel of record ~~in all cases except where~~ unless withdrawal may result in a delay of trial or unless a final appealable order has been entered. In such circumstances, ~~that case,~~ an retained attorney may not withdraw except upon written motion and without the approval of the court.

(2) Court-appointed counsel. Court-appointed counsel may not withdraw as counsel of record except upon motion and signed order of the court. If the court grants appointed counsel's motion to withdraw, the court shall promptly appoint new counsel.

(3) If a motion to withdraw is filed after entry by the court of a final appealable judgment, order, or decree, the motion may not be granted unless counsel, whether retained or court-appointed, certifies in a written statement: (a) that the represented party in a delinquency proceeding has been advised of the availability of a motion for new trial or a certificate of probable cause and that, if appropriate, the same has been filed; and (b) that the represented party has been advised of the right to appeal and that, if appropriate, a Notice of Appeal and a Request for Transcript have been filed.

~~(2)~~ (4) When an attorney withdraws as counsel of record, written notice of the withdrawal must be served upon the client of the withdrawing attorney by first class mail, to his or her last known address" and upon all other parties not in default and a certificate of service must be filed with the court. If a trial date has been set, the notice of withdrawal served upon the client shall include a notification of the trial date.

~~(3)~~ (5) A guardian ad litem may not withdraw except upon written motion and approval of the court.

~~(4) Representation by court appointed counsel shall terminate upon the entry of a final dispositional order without the filing of a formal withdrawal of counsel.~~

#### **Rule 54. Continuances.**

(a) Pre-trial and motion matters may be continued once upon stipulation of the parties and the guardian ad litem and notice to the clerk of the judge to whom the case is assigned. After the first continuance or once a matter has been set for trial, the matter may be continued only with the approval of the court.

(b) A second continuance may be requested by stipulation of the parties and the guardian ad litem, by motion in open court or by written motion clearly stating the grounds for the continuance. Notice of the hearing on the motion shall be served upon all counsel according to Rule 18. The motion and notice of hearing must be served at least 5 days prior to the date of the hearing, unless the court has ordered otherwise and a copy of the court's order is served upon counsel with the motion.

(c) Notwithstanding paragraphs (a) and (b), absent unavoidable circumstances, no continuance shall be granted in any child protection case except upon a showing by the moving party that the continuance will not adversely affect the interest of the child or cause a hearing to be held later than child welfare timelines established by statute.

(d) In sexual abuse cases involving minor victims, continuances may only be granted upon a written finding by the court, or written minute entry which shall include the reason(s) for the continuance.

(e) If the hearing is an "important criminal justice hearing" or an "important juvenile justice hearing" as defined by ' 77-38-2 of which the victim has requested notification, the court should consider the impact of the continuance upon the victim.<sup>1</sup>

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<sup>1</sup> Criminal only.