



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Meeting Agenda

David W. Fureigh, Chair

Location: Webex Meeting:
<https://utcourts.webex.com/utcourts/j.php?MTID=m6f8e8597a6437ca5b0a09cab46676596>

Date: November 6, 2020

Time: 12:00 pm – 2:00 pm

12:00 – 12:10	Action: Welcome and approve October 2, 2020 Meeting minutes	Tab 1	David Fureigh
12:10 – 12:30	Action: Rule 48 Post-Judgment Motions	Tab 2	David Fureigh
12:30 – 12:50	Discussion: Service by publication and Rule 18	Tab 3	Judge Elizabeth Lindsley Bridget Koza
12:50 – 1:10	Action: Venue Transfer and Rule 16	Tab 4	Janette White
1:10 – 1:30	Discussion: Contempt of court and Rule 39	Tab 5	Bridget Koza
1:30 – 1:50	Discussion: Petition contents and Rule 17	Tab 6	Bridget Koza
1:50 – 2:00	Discussion: Old business/new business		All

<https://www.utcourts.gov/utc/juvenile-procedure/>

Meeting Schedule:

December 4, 2020

TAB 1



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Draft Meeting Minutes

October 2, 2020

Webex Meeting:

<https://utcourts.webex.com/utcourts/j.php?MTID=mbc3f4283e215b5e3e03b5e469762c2d6>

12:00 pm – 2:00 pm

David Fureigh, Chair

Attendees:

David Fureigh, Chair
Judge Mary Manley
Arek Butler
Monica Diaz
Michelle Jeffs
Matthew Johnson
Sophie Moore
Mikelle Ostler
Jordan Putnam
Janette White
Chris Yannelli
Carol Verdoia, Emeritus

Staff:

Bridget Koza
Xen Fedison, Juvenile Court Law Clerk
Meg Sternitzky, Juvenile Court Law Clerk

Guests:

Jacqueline Carlton, Office of Legislative
Research and General Counsel

1. Welcome and approval of the August 7, 2020 meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the minutes.

Michelle Jeffs moved to approve the August 7, 2020 meeting minutes. Judge Mary Manley seconded the motion, and it passed unanimously.

David also introduced, Matthew Johnson, as the newest committee member and all committee members disclosed their professional practice.

2. Action – Rule 48: Post-Judgment Motions: (Arek Butler)

Arek Butler discussed with the committee the amendment to Utah Code § 78A-6-1108 and if there should be a change to Rule 48. He discussed State ex rel. C.L., 166 P.3d 608 (2007) and how there are differences between Rules 59 and 60 and Utah § 78A-6-1108 of when the motions need to be filed and who can file them and given the differences, Rule 48 should be left as is and just include a reference to Utah § 78A-6-1108.

Arek Butler moved to amend paragraph (a) of Rule 48 to say “Except as provided in paragraph (c), new hearings shall be available in accordance with Utah R. Civ. P. 52, 59, and 60, and Utah Code 78A-6-1108” and present the revised Rule 48 to the Supreme Court to obtain permission to publish it for public comment. Jordan Putnam seconded the motion, and it passed unanimously.

3. Action – Appointment of a Guardian ad Litem for Incompetent Parent: (David Fureigh)

Bridget Koza updated the committee members regarding her reaching out to Nancy Sylvester, who staffs the Civil Rules Committee, and Nancy referring the issue brought up in footnote 6 in *In re G.J.P.* be referred to the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) Committee. Bridget met with the WINGS’ Executive Committee on September 28, 2020, and the Executive Committee agreed to take the issue to the whole committee on October 15, 2020. The WINGS’ Executive Committee believes that this issue in footnote 6 may need a legislative fix. The committee discussed as well as that there probably needs to be a legislative fix before it would be addressed in the Rules.

Sophie Moore moved to present issue to the Supreme Court to seek future guidance given that issue may need to be addressed legislatively and present law clerk research memorandum. Monica Diaz seconded the motion, and it passed unanimously.

4. Discussion – Appellate Rules 19 and 20: (Bridget Koza)

Bridget discussed with the committee that Larissa Lee, who staffs the Appellate Rules Committee, wanted the Juvenile Rules Committee to discuss if there needs to be references to juvenile court in Appellate Rules 19 and 20 since both just reference “district court.” The committee discussed that Appellate Rule 19(b)(5) should reference juvenile court in addition to district court. The committee discussed that habeas corpus petitions might not be able to heard in juvenile court and those petitions are heard by district court. The committee did discuss that with e-filing, it is not clear how a habeas petition could be filed in district court since the underling case is in juvenile court.

Bridget will email Larissa Lee the feedback from the committee about Appellate Rules 19 and 20.

5. Discussion – Venue Transfer and Rule 16: (Bridget Koza)

Bridget discussed with the committee that with the recodification of the Juvenile Court Act there is effort to take procedure out of the statute and have them in the rules. Utah Code § 78A-6-110 discusses the process for venue transfer that is applicable in delinquency and child welfare cases. There is not a corresponding Rule and Rule 16 deals with delinquency cases at the preliminary inquiry. The committee discussed the need to update Rule 16 and Janette White will present a draft at the next meeting.

Rule 16 will be placed on the November 6, 2020 agenda.

6. Old business/new business: (All)

The Committee discussed potential future agenda items:

- Bridget discussed an email from Judge Lindsley regarding Rule 18 and service by publication. Utah Code § 78A-6-109 discusses service by publication and specifically publication in newspapers and committee will discuss Rule 18 at the November 6, 2020 meeting. Bridget will reach out to Michael Dreschel about whether there will be changes to the statute with the recodification of the Juvenile Court Act.

The meeting adjourned at 1:35 pm. The next meeting will be held on November 6, 2020 at 12:00 pm via Webex.

TAB 2

Rule 48. Post judgment motions.

(a) Except as provided in paragraph (c), new hearings shall be available in accordance with ~~Utah R. Civ. P. 52, 59, and 60~~ Rules 52, 59, and 60 of the Utah Rules of Civil Procedure, and Utah Code section 78A-6-1108.

(b) If a new hearing is granted, the same burden of proof shall apply.

(c) Motions filed under ~~Utah R. Civ. P. 52 and/or Utah R. Civ. P. 59~~ Rules 52 and/or 59 of the Utah Rules of Civil Procedure must be filed no later than 14 days after entry of the judgment.

West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 11. Miscellaneous Provisions

U.C.A. 1953 § 78A-6-1108
Formerly cited as UT ST § 78-3a-908

§ 78A-6-1108. New hearings authorized--Grounds and procedure

Effective: May 12, 2020

[Currentness](#)

(1) A parent, guardian, custodian, or attorney of a child adjudicated under this chapter, a minor who is at least 18 years old, or an adult affected by a decree in a proceeding under this chapter may at any time petition the court for a new hearing on the ground that new evidence has been discovered that:

- (a) was not known;
 - (b) could not with due diligence have been made available at the original hearing; and
 - (c) might affect the decree.
- (2) If it appears to the court that there is new evidence that might affect the court's decree, the court shall order a new hearing, enter a decree, and make any disposition of the case warranted by all the facts and circumstances and the best interests of the minor.
- (3) This section does not apply to a minor's case handled under Part 7, Transfer of Jurisdiction.

Credits

Laws 2008, c. 3, § 466, eff. Feb. 7, 2008; Laws 2011, c. 208, § 8, eff. May 10, 2011; Laws 2020, c. 214, § 62, eff. May 12, 2020.

[Notes of Decisions \(14\)](#)

U.C.A. 1953 § 78A-6-1108, UT ST § 78A-6-1108

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

West's Utah Code Annotated
State Court Rules
Rules of Civil Procedure (Refs & Annos)
Part VII. Judgment

UT Rules Civ. Proc., Rule 60

Rule 60. Relief from Judgment or Order

Currentness

(a) Clerical Mistakes. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. After a notice of appeal has been filed and while the appeal is pending, the mistake may be corrected only with leave of the appellate court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon just terms, the court may relieve a party or its legal representative from a judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under [Rule 59\(b\)](#);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation or other misconduct of an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or vacated, or it is no longer equitable that the judgment should have prospective application; or
- (6) any other reason that justifies relief.

(c) Timing and Effect of the Motion. A motion under paragraph (b) must be filed within a reasonable time and for reasons in paragraph (b)(1), (2), or (3), not more than 90 days after entry of the judgment or order or, if there is no judgment or order, from the date of the proceeding. The motion does not affect the finality of a judgment or suspend its operation.

(d) Other Power to Grant Relief. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding or to set aside a judgment for fraud upon the court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Credits

[Amended effective April 1, 1998; May 1, 2014; May 1, 2016.]

Editors' Notes

ADVISORY COMMITTEE NOTES

The 1998 amendment eliminates as grounds for a motion the following: “(4) when, for any cause, the summons in an action has not been personally served upon the defendant as required by Rule 4(e) and the defendant has failed to appear in said action.” This basis for a motion is not found in the federal rule. The committee concluded the clause was ambiguous and possibly in conflict with rule permitting service by means other than personal service.

2016 Amendments

The deadlines for a motion are as stated in this rule, but if a motion under paragraph (b) is filed within 28 days after the judgment, it will have the same effect on the time to appeal as a motion under Rule 50, 52, or 59. See the 2016 amendments to [Rule of Appellate Procedure 4\(b\)](#).

[Notes of Decisions \(791\)](#)

Utah Rules of Civil Procedure, Rule 60, UT R RCP Rule 60
Current with amendments received through September 15, 2020

TAB 3

West's Utah Code Annotated
State Court Rules
Rules of Juvenile Procedure (Refs & Annos)
Section V. Petition; Service; Pre-Trial Pleadings; Discovery

Utah R. Juv. P. Rule 18

Rule 18. Summons; Service of Process; Notice

Effective: May 1, 2019

[Currentness](#)

(a) Summons. Upon the filing of a petition, the clerk, unless otherwise directed by the court, shall schedule an initial hearing in the case.

(1) *Summons May be Issued by the Petitioning Attorney.* If the petitioning attorney does not issue a summons, summons shall be issued by the clerk in accordance with Section 78A-6-109. The summons shall conform to the format prescribed by these rules.

(2) *Content of the Summons.*

(A) Abuse, Neglect, and Dependency Cases. The summons shall contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It shall state the time within which the respondent is required to answer the petition, and shall notify the respondent that in the case of the failure to do so, judgment by default may be rendered against the respondent. It shall also contain an abbreviated reference to the substance of the petition.

(B) Other Cases. The summons shall contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It shall also contain an abbreviated reference to the substance of the petition. In proceedings against an adult pursuant to Section 78A-6-1001, the summons shall conform to the Utah Rules of Criminal Procedure and be issued by the prosecuting attorney.

(3) The summons shall be directed to the person or persons who have physical care, control or custody of the minor and require them to appear and bring the minor before the court. If the person so summoned is not the parent, guardian or custodian of the minor, a summons shall also be issued to the parent, parents, guardian or custodian. If the minor or person who is the subject of the petition has been emancipated by marriage or is 18 years of age or older at the time the petition is filed, the summons may require the appearance of the minor only, unless otherwise ordered by the court. In neglect, abuse and dependency cases, unless otherwise directed by the court, the summons shall not require the appearance of the subject minor.

(4) No summons shall be necessary as to any party who appears voluntarily or who files a written waiver of service with the clerk prior to or upon appearance at the hearing.

(b) Service.

(1) Except as otherwise provided by these rules or by statute, service of process and proof of service shall be made by the methods provided in [Utah Rule of Civil Procedure 4](#). Service of process shall be made by the sheriff of the county where the service is to be made, by a deputy, by a process server, or by any other suitable person appointed by the court. However, when the court so directs, an agent of the Department of Human Services may serve process in a case in which the Department is a party. A party or party's attorney may serve another party at a court hearing. The record of the proceeding shall reflect the service of the document and shall constitute the proof of service.

(2) Personal service may be made upon a parent, parents, guardian or custodian and upon a minor in that person's legal custody by delivering to a parent, parents, guardian or custodian a copy of the summons with a copy of the petition attached. If a minor is in the legal custody or guardianship of an agency or person other than a parent, service shall also be made by delivering to the legal custodian a copy of the summons with a copy of the petition attached and notice shall be given to the parent as provided in paragraph (d). Service upon a minor who has attained majority by marriage as provided in [Utah Code Ann. Section 15-2-1](#) or upon court order shall be made in the manner provided in the Utah Rules of Civil Procedure.

(3)(A) Service may be made by any form of mail requiring a signed receipt by the addressee. Service is complete upon return to court of the signed receipt.

(B) Service of process may be made by depositing a copy thereof in the United States mail addressed to the last known address of the person to be served. Any person who appears in court in response to mailed service shall be considered to have been legally served.

(4) In any proceeding wherein the parent, parents, guardian or custodian cannot after the exercise of reasonable diligence be located for personal service, the court may proceed to adjudicate the matter subject to the right of the parent, parents, guardian or custodian to a rehearing, except that in certification proceedings brought pursuant to Section 78A-6-703 and in proceedings seeking permanent termination of parental rights, the court shall order service upon the parent, parents, guardian or custodian by publication. Any rehearing shall be requested by written motion.

(5) Service shall be completed at least 48 hours prior to the adjudicatory hearing. If the summons is for the permanent termination of parental rights, service shall be completed at least ten days before the adjudicatory hearing. If the summons is for a substantiation proceeding, service shall be completed at least forty-five days before the adjudicatory hearing.

(c) Service by Publication. Service by publication shall be authorized by the procedure and in the form provided by the Juvenile Court Act and [Utah Rule of Civil Procedure 4](#) except that within the caption and the body of any published document, children shall be identified by their initials and respective birth dates, and not by their names. The parents, parent, or guardian of each child shall be identified as such using their full names within the caption of any published document.

(d) Notice.

(1) Notice of the time, date and place of any further proceedings, after an initial appearance or service of summons, may be given in open court or by mail to any party. Notice shall be sufficient if the clerk deposits the notice in the United States mail, postage pre-paid, to the address provided by the party in court or the address at which the party was initially served, or, if the party has agreed to accept service by email, sends notice to the email address provided by the party.

(2) Notice for any party represented by counsel shall be given to counsel for the party through either mail, notice given in open court, or by email to the email address on file with the Utah State Bar.

(e) Additional Parties. Whenever it appears to the court that a person who is not the parent, guardian or custodian should be made subject to the jurisdiction and authority of the court in a minor's case, upon the motion of any party or the court's own motion, the court may issue a summons ordering such person to appear. Upon the appearance of such person, the court may enter an order making such person a party to the proceeding and may order such person to comply with reasonable conditions as a part of the disposition in the minor's case. Upon the request of such person, the court shall conduct a hearing upon the issue of whether such person should be made a party.

(f) Service of Pleadings and Other Papers. Except as otherwise provided by these rules or by statute, service of pleadings and other papers not requiring a summons shall be made by the methods provided in [Utah Rule of Civil Procedure 5](#), except that service to the email address on file with the Utah State Bar is sufficient service to an attorney under this rule, whether or not an attorney agrees to accept service by email.

(g) Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for eFiling documents does not constitute an electronic filing account as referenced in the Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

Credits

[Adopted effective January 1, 1995. Amended effective April 1, 1996; April 1, 1997; November 1, 2000; August 22, 2002; November 1, 2002; January 1, 2009; November 1, 2010; November 1, 2017; November 1, 2018. Advisory committee notes deleted effective May 1, 2019.]

Utah Rules of Juvenile Procedure Rule 18, UT R JUV Rule 18
Current with amendments received through September 15, 2020

West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 1. General Provisions (Refs & Annos)

U.C.A. 1953 § 78A-6-109

Formerly cited as UT ST § 78-3a-110

§ 78A-6-109. Summons--Service and process--Issuance and contents--
Notice to absent parent or guardian--Emergency medical or surgical
treatment--Compulsory process for attendance of witnesses when authorized

[Currentness](#)

(1) After a petition is filed the court shall promptly issue a summons, unless the judge directs that a further investigation is needed. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or before the hearing.

(2) The summons shall contain:

(a) the name of the court;

(b) the title of the proceedings; and

(c) except for a published summons, a brief statement of the substance of the allegations in the petition.

(3) A published summons shall state:

(a) that a proceeding concerning the minor is pending in the court; and

(b) an adjudication will be made.

(4) The summons shall require the person or persons who have physical custody of the minor to appear personally and bring the minor before the court at a time and place stated. If the person or persons summoned are not the parent, parents, or guardian of the minor, the summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing.

(5) Summons may be issued requiring the appearance of any other person whose presence the court finds necessary.

(6) If it appears to the court that the welfare of the minor or of the public requires that the minor be taken into custody, and it does not conflict with [Section 78A-6-106.5](#), the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.

(7) Subject to Subsection 78A-6-117(2), upon the sworn testimony of one or more reputable physicians, the court may order emergency medical or surgical treatment that is immediately necessary for a minor concerning whom a petition has been filed pending the service of summons upon the minor's parents, guardian, or custodian.

(8) A parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A guardian ad litem or a probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.

(9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Civil Procedure.

(10)(a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.

(b) Notwithstanding Subsection (10)(a), upon request of the court, service shall be made by any other peace officer, or by another suitable person selected by the court.

(11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned; provided, however, that parents of a minor living together at their usual place of abode may both be served by personal delivery to either parent of copies of the summons, one copy for each parent.

(12) If the judge makes a written finding that the judge has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the judge may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state. Service shall be complete upon return to the court of the signed receipt.

(13) If the parents, parent, or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of their minor's presence within the state shall confer jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent parent or guardian, provided that due notice has been given in the following manner:

(a) If the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return to the court of the signed receipt.

(b)(i) If the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:

(A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; and

(B) in accordance with [Section 45-1-101](#) for four weeks.

(ii) Service shall be complete on the day of the last publication.

(c) Service of summons as provided in this subsection shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

(14) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction. In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter shall be made in accordance with the Utah Rules of Civil Procedure.

Credits

[Laws 2008, c. 3, § 375, eff. Feb. 7, 2008; Laws 2009, c. 388, § 227, eff. May 12, 2009; Laws 2017, c. 330, § 48, eff. Aug. 1, 2017.](#)

[Notes of Decisions \(7\)](#)

U.C.A. 1953 § 78A-6-109, UT ST § 78A-6-109

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

TAB 4

Rule 16. Transfer of delinquency case for preliminary inquiry or non-delinquency proceeding.

(a) After the filing of a petition pursuant to Section 78A-6-103, or a petition alleging a delinquency or criminal action, the court may transfer the case to the district where the minor resides or the district where the violation of law or ordinance is alleged to have occurred. The court may, in its discretion, after adjudication certify the case for disposition to the court of the district in which the minor resides.

(b) The transferring or certifying court shall transmit all documents and legal and social records, or certified copies to the receiving court, and the receiving court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in that court.

(c) Transfer of delinquency case for preliminary inquiry.

(c)(1) When a minor resides in a county within the state other than the county in which the alleged delinquency occurred, and it appears that the minor qualifies for a nonjudicial adjustment pursuant to statute, the intake probation officer of the county of occurrence shall, unless otherwise directed by court order, transfer the referral to the county of residence for a preliminary inquiry to be conducted in accordance with Rule 15. If any of the following circumstances are found to exist at the time of preliminary inquiry, the referral shall be transferred back to the county of occurrence for filing of a petition and further proceedings:

(c)(1)(A) if a minor, the child or the child's parent, guardian or custodian cannot be located or failed to appear after notice for the preliminary inquiry;

(c)(1)(B) if a minor, the child or the child's parent, guardian or custodian declines an offer for a nonjudicial adjustment;

(c)(1)(C) if a minor or the minor's custodian cannot be located or fails to appear after notice for the preliminary inquiry or the minor declines an offer for a nonjudicial adjustment;

27 (c)(1)(D) there are circumstances in the case ~~which~~ that require adjudication in the county of
28 occurrence in the interest of justice; or

29 (c)(1)(E) there are multiple minors involved who live in different counties.

30 (d) If the referral is not returned to the county of occurrence, a petition may be filed in the
31 county of residence, and the arraignment and all further proceedings may be conducted in that
32 county if the petition is admitted.

West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 1. General Provisions (Refs & Annos)

U.C.A. 1953 § 78A-6-110

Formerly cited as UT ST § 78-3a-111

§ 78A-6-110. Venue--Transfer or certification to other districts--Dismissal without adjudication on merits

Currentness

(1) Proceedings in minor's cases shall be commenced in the court of the district in which the minor is living or is found, or in which an alleged violation of law or ordinance occurred.

(2) After the filing of a petition, the court may transfer the case to the district where the minor resides or to the district where the violation of law or ordinance is alleged to have occurred. The court may, in its discretion, after adjudication certify the case for disposition to the court of the district in which the minor resides.

(3) The transferring or certifying court shall transmit all documents and legal and social records, or certified copies to the receiving court, and the receiving court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in that court.

(4) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits shall not preclude refile within the same district or another district where there is venue of the case.

Credits

[Laws 2008, c. 3, § 376, eff. Feb. 7, 2008.](#)

U.C.A. 1953 § 78A-6-110, UT ST § 78A-6-110

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

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78A-6-110. Venue -- ~~Transfer or certification to other districts~~ -- Dismissal without adjudication on merits.

- (1) Proceedings in minor's cases shall be commenced in the court of the district in which the minor is living or is found, or in which an alleged violation of law or ordinance occurred.
- (2) ~~After the filing of a petition, the court may transfer the case to the district where the minor resides or to the district where the violation of law or ordinance is alleged to have occurred. The court may, in its discretion, after adjudication certify the case for disposition to the court of the district in which the minor resides.~~
- (3) ~~The transferring or certifying court shall transmit all documents and legal and social records, or certified copies to the receiving court, and the receiving court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in that court.~~
- (4) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits shall not preclude refiling within the same district or another district where there is venue of the case.

TAB 5

West's Utah Code Annotated
State Court Rules
Rules of Juvenile Procedure (Refs & Annos)
Section X. Proceedings Relating to Adults

Utah R. Juv. P. Rule 39

Rule 39. Contempt of Court

Currentness

(a) Any parent, guardian, or custodian of a minor who willfully fails or refuses to produce the minor in court in response to a summons or order of the court may be proceeded against for contempt of court pursuant to Title 78B, Chapter 6 Contempt. Any person made the subject of a court order who willfully fails or refuses to comply with the order may be proceeded against for contempt of court.

(b) Contempt proceedings involving conduct occurring out of the presence of the court shall be initiated by a motion for an order by the court that the person alleged to be in contempt be ordered to appear and show cause why he should not be found in contempt and punished as provided by law. Such motion must be accompanied by an affidavit setting forth the conduct alleged to constitute the contempt. Such motion may be filed by any party to the proceeding or by an officer of the court.

(c) The court may issue a warrant for the arrest of any person who has failed to appear in response to a summons. Upon appearance, the court may find such person in contempt of court unless it appears that there was reasonable cause for the failure to obey the summons.

Credits

[Adopted effective January 1, 1995. Amended effective January 1, 2009.]

Utah Rules of Juvenile Procedure Rule 39, UT R JUV Rule 39
Current with amendments received through September 15, 2020

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West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 1. General Provisions (Refs & Annos)

U.C.A. 1953 § 78A-6-111

Formerly cited as UT ST § 78-3a-112

§ 78A-6-111. Appearances--Parents, guardian, or legal custodian to appear with minor or child--Failure to appear--Contempt--Warrant of arrest, when authorized--Parent's employer to grant time off--Appointment of guardian ad litem

Effective: May 8, 2018

[Currentness](#)

(1) Any person required to appear who, without reasonable cause, fails to appear may be proceeded against for contempt of court, and the court may cause a bench warrant to be issued to produce the person in court.

(2) In a case when a minor is required to appear in court, the parents, guardian, or other person with legal custody of the minor shall appear with the minor unless excused by the judge.

(a) An employee may request permission to leave the workplace for the purpose of attending court if the employee has been notified by the juvenile court that the employee's minor is required to appear before the court.

(b) An employer must grant permission to leave the workplace with or without pay if the employee has requested permission at least seven days in advance or within 24 hours of the employee receiving notice of the hearing.

(3) If a parent or other person who signed a written promise to appear and bring the child to court under [Section 78A-6-112](#) or [78A-6-113](#) fails to appear and bring the child to court on the date set in the promise, or, if the date was to be set, after notification by the court, a warrant may be issued for the apprehension of that person.

(4) Willful failure to perform the promise is a class B misdemeanor if, at the time of the execution of the promise, the promisor is given a copy of the promise which clearly states that failure to appear and have the child appear as promised is a class B misdemeanor. The juvenile court shall have jurisdiction to proceed against the promisor in adult proceedings pursuant to Part 10, Adult Offenses.

(5) The court shall endeavor, through use of the warrant of arrest if necessary, as provided in Subsection (6), or by other means, to ensure the presence at all hearings of one or both parents or of the guardian of a child. If neither a parent nor guardian is present at the court proceedings, the court may appoint a guardian ad litem to protect the interest of a minor. A guardian ad litem may also be appointed whenever necessary for the welfare of a minor, whether or not a parent or guardian is present.

(6) A warrant may be issued for a parent, a guardian, a custodian, or a minor if:

(a) a summons is issued but cannot be served;

(b) it is made to appear to the court that the person to be served will not obey the summons; or

(c) serving the summons will be ineffectual.

Credits

Laws 2008, c. 3, § 377, eff. Feb. 7, 2008; Laws 2017, c. 330, § 49, eff. Aug. 1, 2017; Laws 2018, c. 148, § 45, eff. May 8, 2018.

Notes of Decisions (3)

U.C.A. 1953 § 78A-6-111, UT ST § 78A-6-111

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

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West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 11. Miscellaneous Provisions

U.C.A. 1953 § 78A-6-1101

Formerly cited as UT ST § 78-3a-901

§ 78A-6-1101. Violation of order of court--Contempt--
Penalty--Enforcement of fine, fee, or restitution

Effective: May 14, 2019

[Currentness](#)

- (1) A person who willfully violates or refuses to obey any order of the court may be proceeded against for contempt of court.
- (2) A person 18 years of age or older found in contempt of court may be punished in accordance with [Section 78B-6-310](#).
- (3)(a) A person younger than 18 years of age found in contempt of court may be punished by disposition permitted under [Section 78A-6-117](#), except the court may only order a disposition that changes the custody of the minor, including community placement or commitment to a secure facility, if the disposition is commitment to a secure detention pursuant to Subsection 78A-6-117(2)(h) for no longer than 72 hours, excluding weekends and legal holidays.
- (b) A court may not suspend all or part of the punishment upon compliance with conditions imposed by the court.
- (4) In accordance with [Section 78A-6-117](#), the court may enforce orders of fines, fees, or restitution through garnishments, wage withholdings, supplementary proceedings, or executions. An order described in this Subsection (4) may not be enforced through an order of detention, community placement, or commitment to a secure facility.

Credits

Laws 1996, c. 1, § 76, eff. Jan. 31, 1996; Laws 1997, c. 358, § 2, eff. May 5, 1997; Laws 2008, c. 3, § 459, eff. Feb. 7, 2008; Laws 2017, c. 330, § 70, eff. July 1, 2018; Laws 2019, c. 162, § 8, eff. May 14, 2019.

U.C.A. 1953 § 78A-6-1101, UT ST § 78A-6-1101

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

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TAB 6

West's Utah Code Annotated
State Court Rules
Rules of Juvenile Procedure (Refs & Annos)
Section V. Petition; Service; Pre-Trial Pleadings; Discovery

Utah R. Juv. P. Rule 17

Rule 17. The Petition

Effective: [See Text Amendments] to October 31, 2020

[Currentness](#)

(a) Delinquency Cases.

(1) The petition shall allege the offense as it is designated by statute or ordinance, and shall state: in concise terms, the definition of the offense together with a designation of the section or provision of law allegedly violated; the name, age and date of birth of the minor; the name and residence address of the minor's parents, guardian or custodian; the date and place of the offense; and the name or identity of the victim, if known.

(2) The petition shall be verified and filed by the prosecuting attorney upon information and belief.

(b) Neglect, Abuse, Dependency, Permanent Termination and Ungovernability Cases.

(1) The petition shall set forth in plain and concise language the jurisdictional basis as designated by statute, the facts supporting the court's jurisdiction, and the relief sought. The petition shall state: the name, age and residence of the minor; the name and residence of the minor's parent, guardian or custodian; and if the parent, guardian or custodian is unknown, the name and residence of the nearest known relative or the person or agency exercising physical or legal custody of the minor.

(2) The petition must be verified and statements made therein may be made on information and belief.

(3) A petition filed by a state human services agency shall either be prepared or approved by the office of the attorney general. When the petitioner is an employee or agent of a state agency acting in his or her official capacity, the name of the agency shall be set forth and the petitioner shall designate his or her title.

(c) Other Cases.

(1) *Protective Orders.* Petitions may be filed on forms available from the court clerk and must conform to the format and arrangement of such forms.

(2) *Expungements*. The petition shall state: the name, age and residence of the minor. The petition shall state the date and nature of each adjudication which the petitioner wishes to expunge. Petitions for expungement must be accompanied by an original criminal history report obtained from the Bureau of Criminal Identification and proof of service upon the County Attorney, or within a prosecution district, the District Attorney for each jurisdiction in which an adjudication occurred prior to being filed with the Clerk of Court. Petitions for expungement must meet all of the criteria of [Utah Code § 78A-6-1105](#).

(3) Petitions in other proceedings shall conform to [Utah Rule of Civil Procedure 10](#), except that in adoption proceedings, the petition must be accompanied by a certified copy of the Decree of Permanent Termination.

Credits

[Adopted effective January 1, 1995. Amended effective April 1, 1996; April 1, 2003; January 1, 2009; May 1, 2018.]

Utah Rules of Juvenile Procedure Rule 17, UT R JUV Rule 17
Current with amendments received through September 15, 2020

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West's Utah Code Annotated

Title 78a. Judiciary and Judicial Administration (Refs & Annos)

Chapter 6. Juvenile Court Act (Refs & Annos)

Part 1. General Provisions (Refs & Annos)

U.C.A. 1953 § 78A-6-108

Formerly cited as UT ST § 78-3a-109

§ 78A-6-108. Title of petition and other court documents--Form and contents
of petition--Order for temporary custody or protective services--Physical or
psychological examination of minor, parent, or guardian--Dismissal of petition

Effective: May 12, 2020

[Currentness](#)

(1) The petition and all subsequent court documents in the proceeding shall be entitled:

“State of Utah, in the interest of....., an individual under 18 years old (or an individual under 21 years old).”

(2) The petition shall be verified and statements in the petition may be made upon information and belief.

(3) The petition shall be written in simple and brief language and include the facts which bring the minor within the jurisdiction of the court, as provided in [Section 78A-6-103](#).

(4) The petition shall further state:

(a) the name, age, and residence of the minor;

(b) the names and residences of the minor's parents;

(c) the name and residence of the guardian, if there is one;

(d) the name and address of the nearest known relative, if no parent or guardian of a minor is known; and

(e) the name and residence of the person having physical custody of the minor. If any of the facts required are not known by the petitioner, the petition shall so state.

(5) At any time after a petition is filed, the court may make an order:

- (a) providing for temporary custody of the minor; or
 - (b) that the division provide protective services to the child, if the court determines that:
 - (i) the child is at risk of being removed from the child's home due to abuse or neglect; and
 - (ii) the provision of protective services may make the removal described in Subsection (5)(b)(i) unnecessary.
- (6)(a) The court may order that a minor concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a hospital or other facility for examination.
- (b) After notice and a hearing set for the specific purpose, the court may order a similar examination of a parent or guardian whose ability to care for a minor is at issue, if the court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the neglect, dependency, or delinquency of the minor.
- (7) An examination conducted in accordance with Subsection (6) is not a privileged communication under [Utah Rules of Evidence, Rule 506\(d\)\(3\)](#), and is exempt from the general rule of privilege.
- (8) The court may dismiss a petition at any stage of the proceedings.
- (9) If the petition is filed under [Section 78A-6-304](#) or [78A-6-505](#), or if the matter is referred to the court under Subsection 78A-6-104(5), the court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Credits

[Laws 2008, c. 3, § 374, eff. Feb. 7, 2008; Laws 2020, c. 214, § 41, eff. May 12, 2020.](#)

[Notes of Decisions \(3\)](#)

U.C.A. 1953 § 78A-6-108, UT ST § 78A-6-108

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.