



# 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=m60614e94398c691ccac151892d1f861d>

Date: June 4, 2021

Time: 12:00 pm – 2:00 pm

<b>Action:</b> Welcome and approval of May 7, 2021 Meeting minutes	Tab 1	David Fureigh
<b>Discussion &amp; Action - Rules Affected by H.B. 285 Juvenile Recodification:</b>	Tab 2	
Rule 22: Initial Appearance and Preliminary Examination in Cases Under Utah Code Section 78A-6-703.3		Bridget Koza
Rule 43: Evidence		Judge Elizabeth Lindsley
Rule 20: Discovery generally		Arek Butler
Rule 46: Disposition hearing		Arek Butler
Rule 50: Presence at hearings		David Fureigh
Rule 56: Expungement		David Fureigh
Rule 5: Definitions <i>Discuss change to ungovernability definition due to H.B. 285 Juvenile Recodification.</i>		Mikelle Ostler
Rule 30: Citations; Applicable Offenses and Procedures; Bail		Mikelle Ostler
Rule 7: Warrants		Michelle Jeffs
Rule 18: Summons; Service of Process; Notice		Matthew Johnson
Rule 60: Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion		Matthew Johnson
Rule 47: Reviews and modifications of orders		Bridget Koza
<b>Discussion &amp; Action:</b>	Tab 3	
<ul style="list-style-type: none"> <li>Rule 8: Rights of minors while in detention (SC sent back to Committee)</li> </ul>		David Fureigh

<ul style="list-style-type: none"> <li>• Rule 27A: Admissibility of statements given by minors. (SC sent back to Committee)</li> <li>• Rule 55: Transfer of minors who present a danger in detention. (SC sent back to Committee)</li> </ul>		
<b>Action:</b> Rule 44: Findings and conclusions	Tab 4	David Fureigh
<b>Discussion &amp; Action:</b> Rule 45: Pre-disposition reports and social studies.	Tab 5	Sophia Moore Matthew Johnson
<b>Discussion:</b> Rule 25: Pleas and Rule 25A: Withdrawal of Plea <i>Discuss any changes needed since language will be incorporated in to Juvenile Code due to H.B. 285 Juvenile Recodification.</i>	Tab 6	Bridget Koza
<b>Discussion &amp; Action:</b> Rule 11: Time limits on detention orders. <i>Discuss proposed changes regarding diversions to detention.</i>	Tab 7	Judge Elizabeth Lindsley
<b>Discussion:</b> Changes to Civil Rules 5, 7A, 7B, and 10 <ul style="list-style-type: none"> <li>• Civil Rules 7A: Motion to Enforce Order and for Sanctions and 7B: Motion to Enforce Order and for Sanctions in Domestic Law Matters (<i>effective May 1, 2021</i>)</li> <li>• Civil Rule 5: Service and Filing of Pleading and Other Papers (<i>effective November 1, 2021</i>)</li> <li>• Civil Rule 10: Form of Pleadings and Other Papers (<i>effective May 1, 2022</i>)</li> </ul> <i>Discuss Impact to Juvenile Rules as well as if specific Civil Rules should be applicable in juvenile court as to change Juvenile Rule 2.</i>	Tab 8	Bridget Koza
<b>Discussion:</b> Old business or new business		All

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

Meeting Schedule:

August 6, 2021

November 5, 2021

September 3, 2021

December 3, 2021

October 1, 2021

# TAB 1



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

### Draft Meeting Minutes

*David W. Fureigh, Chair*

Location: Webex Meeting:  
<https://utcourts.webex.com/utcourts/j.php?MTID=m60614e94398c691ccac151892d1f861d>

Date: May 7, 2021

Time: 12:00 pm – 2:00 pm

<b><u>Attendees:</u></b> David Fureigh, Chair Arek Butler Monica Diaz Kristin Fadel Michelle Jeffs Matthew Johnson Judge Elizabeth Lindsley Judge Mary Manley Sophia Moore Mikelle Ostler Jordan Putnam Janette White Chris Yannelli	<b><u>Excused Members:</u></b> Carol Verdoia, Emeritus Member
<b><u>Staff:</u></b> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Xen Fedison, Juvenile Court Law Clerk	<b><u>Guests:</u></b> Christopher Williams, Office of Legislative Research and General Counsel

## **1. Welcome and approval of the April 2, 2021 minutes:** (David Fureigh)

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

*Judge Manley moved to approve the April 2, 2021 meeting minutes. Monica Diaz seconded the motion, and it passed unanimously.*

David had some announcements for the committee. The Supreme Court has created a consent calendar for their conferences so if there are rules have a technical change or just updating statutory references they can be added to the consent calendar. The Supreme Court approved Rules 12, 13, 27, 34 and 51 and will be effective September 1, 2021 and they also approved Rule 3 which will be sent out for public comment.

David also announced the change in employment for a couple of members: Monica Diaz has been nominated to be juvenile judge in the 3<sup>rd</sup> District and Michelle Jeffs has been hired as a professor at Weber State in their criminal justice department. Michelle will finish out her term on the committee.

## **2. Action: Supreme Court Conference Update:** (David Fureigh)

David discussed feedback from the Supreme Court regarding Rules 8, 27A, and 55 from their April 23, 2021 conference. All three rules were sent back to address the Supreme Court's feedback that Rules 8 and 27A contain several substantive rights and duties while minimally addressing procedure (and the Supreme Court had minimal discussion about Rule 55 but had the same concerns as Rules 8 and 27A). The Supreme Court had specific feedback regarding paragraph c in Rule 8 with the two unless clauses was confusing and should be addressed. The Supreme Court also advised David to speak with the Rules of Evidence Committee to address Rule 27A and the admissibility of statements made by minors in an interrogation

The committee had a lengthy discussion about how to address the Supreme Court's feedback including whether to keep the language in the rules and just address the specific feedback regarding paragraph c in Rule 8 or whether to repeal some of the rules and just have references to the statute. The committee discussed that other groups, including police officers and detention facility staff, rely on the rules outside of attorneys and judges. The committee also reviewed the advisory committee note to Rule 8 that discusses that the rule was kept because the substantive rights were not in statute or administrative rules. The committee finally discussed about whether the language in Rules 8 and 27A is meant to address interrogations of minors or all interviews of minors. The language in the both rules and juvenile code recodification used the word "interview" but it appears to be primarily addressing interrogations.

*Arek Butler motioned to changed paragraph c in Rule 8 to “interviewing and interrogating of a minor in detention are governed by Utah Code section 80-6-206.” Sophia Moore moved to table the motion for further discussion at the June 4, 2021 meeting.*

*The committee agreed to continue discussing Rules 8, 27A, and 55 at the June 4, 2021 meeting. Janette White left meeting at 12:58 pm.*

**3. Action: Rule 26: Rights of minors in delinquency proceedings: (Bridget Koza)**

Bridget Koza discussed with the committee that they had previously approved amendments to Rule 26 to make it consistent with the Indigent Defense Act. Bridget noted that no comments were made during the comment period, and at the April 2, 2021 meeting, the committee discussed amending Rule 26 to include reference to a criminal information filed pursuant to Utah Code section 78A-6-103.5. The committee discussed amendment made at the April 2, 2021 meeting.

*Monica Diaz moved to request that the Supreme Court approve Rule 26 (Draft April 2, 2021) for final publication on expedited basis to go into effect September 1, 2021. Chris Yanelli seconded the motion, and it passed unanimously.*

**4. Action: Rules 16: Transfer of delinquency case, 16A: Transfer of a non-delinquency proceeding, and 17: The petition: (Bridget Koza)**

Bridget Koza discussed with the committee that they had previously approved amendments to Rule 16, 16A, and 17 to address parts of the juvenile code that were repealed in the juvenile code recodification. Prior to the rules going out for comment, Bridget updated the statutory references in Rule 17 to conform with the juvenile code recodification. The rules had gone out for comment and no comments were made during the comment period

*Kristin Fadel moved to request that the Supreme Court approve Rules 16, 16A, and 17 (Draft March 10, 2021) for final publication on expedited basis to go into effect September 1, 2021. Michelle Jeffs seconded the motion, and it passed unanimously.*

**5. Action: Rule 44: Findings and conclusions: (David Fureigh)**

*The committee did not have time to discuss this agenda item as there were substantive changes to the language in the rule in addition to statutory references update due to the Juvenile Court Act Recodification and agree that the agenda item will be put on the June 4, 2021 meeting.*

**6. Discussion & Action: Rule 29A: Visual Recording of Statement or Testimony of Child Victim or Witness or Sexual or Physical Abuse – Conditions of Admissibility: (Kristin Fadel)**

Kristin Fadel discussed with the committee impacts to Rule 29A from the 2021 Legislative Session and the proposed changes. Kristin noted a few statutory code changes due to the recodification (specifically changing references 78A-6-702 and 78A-6-703 to Title 80, Chapter 6, Part 5, Transfer to District Court) to but did not see any substantive changes. The committee discussed the update references.

*Chris Yanelli moved to present the revised Rule 29A (Draft May 7, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Arek Butler seconded the motion, and it passed unanimously.*

#### **7. Discussion & Action: Rule 35: Pre-Trial Procedures: (Kristin Fadel)**

Kristin Fadel discussed with the committee impacts to Rule 35 from the 2021 Legislative Session and the proposed changes. Kristin noted one statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update reference.

*Monica Diaz moved to present the revised Rule 35 (Draft April 1, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Matthew Johnson seconded the motion, and it passed unanimously.*

#### **8. Discussion & Action: Rule 7: Warrants: (Michelle Jeffs)**

*The committee did not have time to discuss this agenda item as there were substantive changes to the language in the rule in addition to statutory references update due to the Juvenile Court Act Recodification and agree that the agenda item will be put on the June 4, 2021 meeting.*

#### **9. Discussion & Action: Rule 23A: Hearing on Factors of Utah Code Section 78A-6-703.3; Bind over to District Court: (Michelle Jeffs)**

Michelle Jeffs discussed with the committee impacts to Rule 23A from the 2021 Legislative Session and the proposed changes. Michelle noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references.

*Mikelle Ostler moved to present the revised Rule 23A (Draft March 29, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Sophia Moore seconded the motion, and it passed unanimously.*

#### **10. Discussion & Action: Rule 37: Child Protective Orders: (Judge Mary Manley)**

Judge Manley discussed with the committee impacts to Rule 37 from the 2021 Legislative Session and the proposed changes. Judge Manley changed the reference to 78A-6-1111, which was repealed and moved into three new sections in the recodification, to “under the law” and also conformed the time requirement in paragraph (e) to new timeline in HB 255. The committee discussed the update references.

*Sophia Moore moved to present the revised Rule 37 (Draft April 26, 2021) to the Supreme Court to obtain approval to publish it for public comment. Michelle Jeffs seconded the motion, and it passed unanimously.*

#### **11. Discussion & Action: Rule 21: Warrant of Arrest or Summons in Cases Under Utah Code Section 78A-6-703.3: (Sophia Moore)**

Sophia Moore discussed with the committee impacts to Rule 21 from the 2021 Legislative Session and the proposed changes. Sophia noted the statutory code changes due to the recodification as well as possibly removing jail from paragraph c. The committee discussed leaving jail paragraph c, but changing the term to “correctional facility” and reordering so detention facility is listed second and correctional facility is listed third.

*Chris Yanelli moved to present the revised Rule 21 (Draft May 7, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Arek Butler seconded the motion, and it passed unanimously.*

#### **12. Discussion & Action: Rule 29B: Hearings with Remote Conferencing from a Different Location: (Sophia Moore)**

Sophia Moore discussed with the committee impacts to Rule 29B from the 2021 Legislative Session and the proposed changes. Sophia noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references as well as whether the types of hearings that can be completed remotely is still appropriate given the past year. The committee agreed to keep the list of hearings as is and the rule also allows flexibility to hold other hearings remotely.

*Judge Lindsley moved to present the revised Rule 29B (Draft April 29, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Kristin Fadel seconded the motion, and it passed unanimously.*

#### **13. Discussion & Action: Rule 5: Definitions: (Mikelle Ostler)**



Mikelle Ostler discussed with the committee impacts to Rule 5 from the 2021 Legislative Session and the proposed changes. Mikelle noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references including what references to include in the definition of disposition. The committee decided to just include a reference to 80-1-102 because that defines the disposition.

*Sophia Moore left the meeting at 1:53 pm and Judge Lindlsey left the meeting at 1:55 pm. The committee will continue discussing this agenda item at the June 4, 2021 meeting.*

**14. Discussion & Action: Rule 30: Citations; Applicable Offenses and Procedures; Bail: (Mikelle Ostler)**

*The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.*

**15. Discussion & Action: Rule 9: Detention Hearings; Scheduling; Hearing Procedure: (Chris Yanelli)**

Chris Yanelli discussed with the committee impacts to Rule 9 from the 2021 Legislative Session and the proposed changes. Chris noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references.

*Arek Butler moved to present the revised Rule 9 (Draft April 139, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Michelle Jeffs seconded the motion, and it passed unanimously.*

**16. Discussion & Action: Rule 22: Initial Appearance and Preliminary Examination in Cases Under Utah Code Section 78A-6-703.3: (Chris Yanelli)**

Chris Yanelli discussed with the committee impacts to Rule 22 from the 2021 Legislative Session and the proposed changes. Chris noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references as well as having the formatting conform to the style guide.

*Chris and Bridget will review Rule 22 and edit it so its format conforms to the style guide. This agenda item will be put on the June 4, 2021 meeting agenda.*

**17. Discussion & Action: Rule 47: Reviews and modifications of orders: (Bridget Koza)**

*The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.*

**18. Discussion & Action: Rule 45: Pre-disposition reports and social studies:** (Sophia Moore & Matthew Johnson)

*The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.*

The meeting adjourned at 2:00. The next meeting will be held on June 4, 2021 at 12:00 pm via Webex.

# TAB 2

Draft May 10, 2021

**Rule 22. Initial appearance and preliminary examination in cases under Utah Code section ~~78A-6-703.380-6-503~~**

(a) When a summons is issued in lieu of a warrant of arrest, the minor shall appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor shall be taken to a juvenile detention facility pending a detention hearing, which shall be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor shall be taken to the place designated on the warrant. If an information has not been filed, one shall be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor shall without unnecessary delay be returned to the county where the crime was committed and shall be taken before a judge of the juvenile court.

(d) The court shall, upon the minor's first appearance, inform the minor:

~~(d)~~(1) of the charge in the information or indictment and furnish the minor with a copy;

~~(d)~~(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

~~(d)~~(3) of the right to retain counsel or have counsel appointed by the court;

~~(d)~~(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

~~(d)~~(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court shall, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel

and shall allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f)(1) The minor may not be called on to enter a plea. During the initial appearance, the minor shall be advised of the right to a preliminary examination. If the minor waives the right to a preliminary examination the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section ~~78A-6-703.580-6-~~ 504.

(f)(2g) If the minor does not waive a preliminary examination, the court shall schedule the preliminary examination. The time periods of this rule may be extended by the court for good cause shown. The preliminary examination shall be held within a reasonable time, but not later than ten days after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section ~~78A-6-703.380-~~ 6-503. The preliminary examination shall be held within a reasonable time, but not later than 30 days after the initial appearance if:

~~(f)(2)(A1)~~ (A1) the minor is in custody for the offense charged and the information is filed under Utah Code section ~~78A-6-703.380-6-503~~; or

~~(f)(2)(B2)~~ (B2) the minor is not in custody.

~~(f)(3h)~~ (3h) A preliminary examination may not be held if the minor is indicted. If the indictment is filed under Utah Code section ~~78A-6-703.380-6-503~~, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section ~~78A-6-703.580-6-503~~.

(gi) A preliminary examination shall be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(hj) If from the evidence the court finds probable cause to believe that the crime charged has been committed, that the minor has committed it, and the information is filed under

Utah Code section ~~78A-6-703.380-6-503~~, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section ~~78A-6-703.580-6-504~~.

(~~k~~) The finding of probable cause may be based on hearsay in whole or in part. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(~~j~~) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court shall dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(~~k~~m) At a preliminary examination, upon request of either party, and subject to Title 77, Chapter 38, Victim Rights, the court may:

~~(k)~~(1) exclude witnesses from the courtroom;

~~(k)~~(2) require witnesses not to converse with each other until the preliminary examination is concluded; and

~~(k)~~(3) exclude spectators from the courtroom.

1     **Draft May 5, 2021**

2     **Rule 43. Evidence.**

3     (a) Except as set forth herein or as otherwise provided by law, the juvenile court shall  
4     adhere to the Utah Rules of Evidence.

5     (b) All oral testimony before the court shall be given under oath unless waived by the  
6     parties, and may be narrative in form or by stipulated proffer of testimony or as  
7     otherwise provided by these Rules.

8     (c) Written notice of the intent to offer a statement under Utah Code ~~Section~~sections  
9     ~~78A-6-115(6)~~80-3-108 and 80-4-107 must be given to all parties at least five days prior  
10    to the adjudication hearing in which the statement is going to be offered. The court  
11    may, upon good cause shown, waive the requirement for five days' notice.

1   **Draft May 28, 2021**

2   **Rule 20. Discovery generally.**

3   (a) Discovery involving adjudications of delinquency, offenses by adults against minors,  
4   and proceedings brought pursuant to Title 80, Chapter 6, Part 5, Transfer to District  
5   ~~Court~~~~Section 78A-6-702 and Section 78A-6-703~~ shall be conducted in accordance with  
6   ~~Utah R. Cr. P. 16~~Rule 16 of the Utah Rules of Civil Procedure, except where limited by  
7   these rules, the Code of Judicial Administration, or the ~~Juvenile Court Act~~Utah Juvenile  
8   Code.

9   (b) In substantiation cases, no later than thirty days prior to trial, parties shall provide to  
10   each other information necessary to support its claims or defenses unless otherwise  
11   ordered by the court.

12   (c) Rule 26.1 of the Utah Rules of Civil Procedure does not apply in any juvenile  
13   proceedings unless there is a showing of good cause and it is ordered by the court.

14   (d) In all other cases, discovery shall be conducted pursuant to these rules unless  
15   modified by a showing of good cause and by order of the court.



**Draft May 28, 2021**

**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 to the parent, guardian or custodian of a child, 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. The disposition order may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to the court's acceptance and signing of submission.

(e) Disposition of a petition alleging abuse, neglect, or dependency of a child shall be conducted also in accordance with Utah Code ~~Section sections 78A-6-117, Section 78A-6-311, and Section 78A-6-312~~80-3-402, 80-3-405, and 80-3-406.

**Draft May 28, 2021**

**Rule 50. Presence at hearings.**

(a) In abuse, neglect, and dependency cases the court shall admit persons as provided by Utah Code sections ~~78A-6-114~~80-3-104 and 80-4-106. 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 Rule 19 of the Utah Rules of Appellate Procedure. Proceedings are not stayed pending appeal. As provided under Utah Code sections ~~78A-6-115~~80-3-107 and 80-4-107, a person may file a petition requesting a copy of a record of the proceedings, setting forth the reasons for the request. Upon fee payment and the Court's finding of good cause, the person will 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 that 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.

(f) In proceedings subject to the Indian Child Welfare Act of 1978, 25 U.S.C. sections 1901-63:

(1) The Indian child's tribe is not required to formally intervene in the proceeding unless the tribe seeks affirmative relief from the court.

(2) If an Indian child's tribe does not formally intervene in the proceeding, official tribal representatives from the Indian child's tribe have the right to participate in any court proceeding. Participating in a court proceeding includes ~~being able to:~~

(A) ~~be~~ presenting at the hearing;

(B) addressing the court;

(C) requesting and ~~receive-receiving~~ notice of hearings;

(D) presenting information to the court and other parties that is relevant to the proceeding;

(E) submitting written reports and recommendations to the court and other parties; and

(F) performing other duties and responsibilities as requested or approved by the court.

(3) The designated representative must provide the representative's contact information in writing to the court and other parties.

(4) As provided in Rule 14-802 of the Supreme Court Rules of Professional Practice, before a nonlawyer may represent a tribe in the proceeding, the tribe must designate the nonlawyer representative by filing a written authorization. If

54 the tribe changes its designated representative or if the representative  
55 withdraws, the tribe must file a written substitution of representation or  
56 withdrawal.

1 Draft May 28, 2021

2 Rule 56. Expungement.

3 (a) Any ~~person~~ individual who has been adjudicated ~~in a minor's case by a juvenile court~~  
4 may petition the court for an order expunging and sealing the records pursuant to Utah  
5 Code section ~~78A-6-1501~~ 80-6-1001, et. seq.

6 (b) **Adjudication expungement.**

7 (b)(1) Upon filing the petition, the clerk shall calendar the matter for hearing and  
8 give at least 30 days notice to the prosecuting attorney, the Juvenile Probation  
9 Department, the agency with custody of the records, and any victim or victims  
10 representative of record on each adjudication identified by petitioner as being  
11 subject to expungement who have requested in writing notice of further  
12 proceedings. The petitioner may be required to obtain and file verifications from  
13 local law enforcement agencies in every community in which the petitioner has  
14 resided stating whether petitioner has a criminal record.

15 (b)(2) If the court finds, upon hearing, that the conditions for expungement under  
16 Utah Code section ~~78A-6-1503~~ 80-6-1004 have been satisfied, the court shall order  
17 the records of the case sealed as provided in Utah Code section ~~78A-6-1503~~ 80-6-  
18 1004.

**Commented [BK1]:** Code says the records are expunged, only uses the word seal as to DCFS records

19 (c) **Nonjudicial expungement.**

20 (c)(1) A person whose juvenile record consists solely of nonjudicial adjustments,  
21 as provided for in Utah Code section ~~78A-6-602~~ 80-6-304, may petition the court for  
22 expungement as provided for in Utah Code section ~~78A-6-1504~~ 80-6-1005.

23 (d) The clerk shall provide certified copies of the executed order of expungement, at no  
24 cost, to the petitioner and the petitioner shall deliver a copy of the order to each agency  
25 in the State of Utah identified in the order.

1 **Draft April 30, 2021**

2 **Rule 5. Definitions.**

3 Terms in these rules have the same definitions as provided in ~~Utah Code section 62A-7-~~  
4 ~~401 and~~ Utah Code section ~~78A-6-105~~ 80-1-102 and ~~Utah Code section 78A-6-301~~ 80-3-  
5 102 unless a different definition is given here. As used in these rules:

6 (a) "Abuse, neglect, and dependency" refers to proceedings under Utah Code sections  
7 ~~78A-6-302~~ 80-3-301 et seq. and ~~78A-6-501~~ 80-4-101 et seq.

8 (b) "Adjudication" means a finding by the court, incorporated in a judgment or decree,  
9 that the facts alleged in the petition have been proved.

10 (c) "Adult" means an individual who is 18 years old or older. "Adult" does not include  
11 an individual who is 18 years old or older and whose case is under the continuing  
12 jurisdiction of the juvenile court in accordance with Utah Code section 78A-6-120(d)

13 (d) "Arraignment" means the hearing at which a minor is informed of the allegations and  
14 the minor's rights, and is given an opportunity to admit or deny the allegations.

15 (e) "Court records" means all juvenile court legal records, all juvenile court social and  
16 probation records, and all other juvenile court records prepared, owned, received, or  
17 maintained by the court.

18 (f) "Disposition" means any order of the court, after adjudication, pursuant to Utah Code  
19 sections ~~78A-6-117~~ 80-3-405 and 80-4-305.

20 (g) "Minor" means:

21 (g)(1) For the purpose of juvenile delinquency: a child, or an individual who is at  
22 least 18 years old and younger than 25 years old and whose case is under the  
23 jurisdiction of the juvenile court; and

24 (g)(2) For all other purposes in these rules: a child, or an individual who is at least  
25 18 years old and younger than 21 years old and whose case is under the  
26 jurisdiction of the juvenile court.

**Commented [BK1]:** Do we also need a reference to 80-6-503 for those youth who commit serious crimes?

27 (h) "Petition" means the document containing the material facts and allegations upon  
28 which the court's jurisdiction is based.

29 (i) "Preliminary inquiry" means an investigation and study conducted by the probation  
30 department upon the receipt of a referral to determine whether the interests of the public  
31 or of the minor require that further action be taken.

32 (j) "Substantiation proceedings" means juvenile court proceedings in which an individual  
33 or the Division of Child and Family Services seeks a judicial finding of a claim of  
34 substantiated, unsubstantiated or without merit with regards to a DCFS finding of severe  
35 child abuse or neglect for purposes of the Division's Licensing Information System.

36 (k) "Ungovernability" means the condition of a child who is beyond the control of the  
37 parent, guardian, or lawful custodian, to the extent that the child's behavior or condition  
38 endangers the child's own welfare or the welfare of others or has run away from home.

**Commented [BK2]:** The recodification separates out ungovernability and runaway. This is definition of a runaway child, not an ungovernable child.

1 Draft April 30, 2021

2 Rule 30. Citations; Applicable Offenses and Procedures; Bail

3 (a) A citation issued pursuant to ~~Section~~ Utah Code section 78A-6-603 80-6-302 shall be  
4 sufficient to invoke the jurisdiction of the juvenile court in any offense listed in that  
5 section.

6 (b) Procedure. Whenever a citation is issued pursuant to ~~S~~Utah Code section 78A-6-603  
7 80-6-302, a copy of the citation filed with the juvenile court may be used in lieu of a  
8 petition upon which the minor may appear and admit the offense, upon which the court  
9 may make a disposition, or upon which the court may accept bail in lieu of appearance.  
10 If the minor fails to appear on a citation or fails to tender the fine as bail in cases where  
11 bail is permitted in lieu of appearance, a petition or order to show cause may be filed and  
12 further proceedings held as provided in these rules.

13 (c) Where a citation has been filed with the juvenile court for an offense, the minor cited  
14 shall be allowed to post bail without further court appearance except as provided in ~~this~~  
15 ~~rule~~ Utah Code section 77-20-1.

16 (d) The bail amount for each such offense shall be included in a written notice of bailable  
17 offenses in accordance with the bail/fine schedule approved by the Judicial Council. The  
18 bail amount may immediately be forfeited as a fine and shall be deemed a conviction of  
19 the offense charged if the notice has been given to the cited minor and the notice advises  
20 the minor and the minor's parent, guardian or custodian that payment of the fine  
21 constitutes an admission of guilt.

22 (e) A juvenile court district may, or where required by statute shall, designate repeat  
23 offenses for which an appearance or additional bail is required.

**Commented [BK1]:** Does this change make sense? The recodification clarified things about bail:

80-6-207 (11) Notwithstanding Title 77, Chapter 20, Bail, a minor in a detention facility does not have a right to bail, except that bail is allowed if:

- (a) a minor is cited under Section 80-6-302;
- (b) a minor is charged in accordance with Section 80-6-502;
- (c) a minor is bound over to the district court in accordance with Section 80-6-504;
- (d) a minor, who need not be detained, lives outside this state; and
- (e) a minor, who need not be detained, is held in contempt under Section 78A-6-353.



1 Draft March 29, 2021

2 Rule 7. Warrants.

3 (a) The issuance and execution of a warrant is governed by Title 77, Chapter 7, Arrest,  
4 Utah Code sections Section 78A-6-106, 78A-6-102, Section 78A-6-106.5, 80-6-201, Section  
5 78A-6-111, 80-6-202, and Section 78A-6-112, 78A-6-352, and Utah Rule of Criminal  
6 Procedure 40.

Commented [J1]: Doesn't address warrants, only taking custody w/o warrant, so I'm not sure we should include this one.

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

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

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

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

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

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

19 ~~(b)~~(6) ~~there are reasonable grounds to believe that the minor has run away or~~  
20 ~~escaped from the minor's parent, guardian or custodian~~ the minor is a runaway or  
21 has escaped from the minor's parent, guardian, or custodian.

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

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

~~(e)~~(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 returned home, taken to the court, taken to a juvenile detention, shelter facility, other nonsecure facility or an adult detention facility, if appropriate, 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.

(e) 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.

(f) 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 under Utah Code section 80-6-201.

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

(h) The juvenile court to retain and file copies - Documents sealed for twenty days - Forwarding of record to court with jurisdiction.

~~(h)~~(1) At the time of issuance, the juvenile court shall retain and seal a copy of the search warrant, the application and all affidavits or other recorded testimony on

**Commented [J2]:** (d) A warrant may not be issued for a minor to be taken into temporary custody for a status offense or infraction, but a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other non-secure facility.

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53 which the warrant is based and shall, within a reasonable time, file those sealed  
54 documents in court files which are secured against access by the public. Those  
55 documents shall remain sealed until twenty days following the issuance of the  
56 warrant unless that time is extended or reduced. Unsealed search warrant  
57 documents shall be filed in the court record.

58 ~~(h)~~(2) Sealing and retention of the file may be accomplished by:

59 ~~(h)~~(2)(A) placing paper documents or storage media in a sealed envelope  
60 and filing the sealed envelope in a court file not available to the public;

61 ~~(h)~~(2)(B) storing the documents by electronic or other means under the  
62 control of the court in a manner reasonably designed to preserve the  
63 integrity of the documents and protect them against disclosure to the public  
64 during the period in which they are sealed; or

65 ~~(h)~~(2)(C) filing through the use of an electronic filing system operated by  
66 the State of Utah which system is designed to transmit accurate copies of  
67 the documents to the court file without allowing alteration to the  
68 documents after issuance of the warrant by the juvenile court.

69

**Draft May 26, 2021**

**Rule 18. Summons; service of process; notice.**

(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 Utah Code sSection 78A-6-10978A-6-351. 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-Utah Code section 78A-6-100178A-6-450, 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, 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, guardian, or custodian and upon a minor in that person's legal custody by delivering to a parent, 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

55 court order shall be made in the manner provided in the Utah Rules of Civil  
56 Procedure.

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

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

63 (4) In any proceeding wherein the parent, guardian, or custodian cannot after the  
64 exercise of reasonable diligence be located for personal service, the court may  
65 proceed to adjudicate the matter subject to the right of the parent, guardian or  
66 custodian to a rehearing, except that in certification proceedings brought  
67 pursuant to Title 80, Chapter 6, Part 5, Transfer to District Court ~~Section 78A-6-~~  
68 ~~703~~ and in proceedings seeking permanent termination of parental rights, the  
69 court shall order service upon the parent, guardian, or custodian by publication.  
70 Any rehearing shall be requested by written motion.

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

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

**Commented [BK1]:** Should this say "parent, guardian, or custodian" as is stated everywhere else in the rule?

(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.

**URJP 18**

109    **Advisory Committee Notes**

110    The present law is silent on the matter of service on the minor who is the subject of a  
111    petition. This rule continues the current practice of requiring service only on the parent,  
112    parents, guardian, or custodian having legal custody.

113



**Draft May 26, 2021**

**Rule 60. Judicial bypass procedure to authorize minor to consent to an abortion.**

(a) Petition. An action for an order authorizing a minor to consent to an abortion without the consent of a parent or guardian is commenced by filing a petition. The petitioner is not required to provide an address or telephone number but must identify the county and state of residence. Blank petition forms will be available at all juvenile court locations. The court shall provide assistance and a private, confidential area for completing the petition.

(b) Filing. The petition may be filed in any county. No filing fee will be charged.

(c) Appointment of Counsel. If the petitioner is not represented by a private attorney, the juvenile court shall consider appointing an attorney under Utah Code ~~Sections~~ 78A-6-1111-80-3-104, 80-4-106, and 80-6-602 and/or the Office of Guardian ad Litem under ~~Section~~ Utah Code section 78A-6-902-78A-2-803. If the court appoints an attorney, it may also appoint the Office of Guardian ad Litem. The clerk shall immediately notify any attorney appointed.

(d) Expedited Hearing. Upon receipt of the petition, the court shall schedule a hearing and resolve the petition within three business days. The court may continue the hearing for no more than one business day if the court determines that the additional time is necessary to gather and receive more evidence. The clerk shall immediately provide notice of the hearing date and time. The hearing shall be closed to everyone except the petitioner, the petitioner's attorney, the guardian ad litem, and any individual invited by the petitioner. The petitioner shall be present at the hearing. The hearing may be held in chambers if recording equipment or a reporter is available.

(e) Findings and Order. The court shall enter an order immediately after the hearing is concluded. The court shall grant the petition if the court finds by a preponderance of the evidence that one of the statutory grounds for dispensing with parental consent exists. Otherwise, the court shall deny the petition. If the petition is denied, the court

shall inform the petitioner of her right to an expedited appeal to the Utah Court of Appeals. The court shall provide a copy of the order to individuals designated by the petitioner.

(f) Confidentiality. The petition and all hearings, proceedings, and records are confidential. Court personnel are prohibited from notifying a minor's parents, guardian, or custodian that a minor is pregnant or wants to have an abortion, or from disclosing this information to any member of the public.

(g) Appeal. A petitioner may appeal an order denying or dismissing a petition to bypass parental consent by filing a notice of appeal with the clerk of the juvenile court within the time allowed under Rule 4 of the Utah Rules of Appellate Procedure. The clerk shall immediately notify the clerk of the court of appeals that the notice of appeal has been filed.

(h) This rule ~~superecedessupersedes~~ all other procedural rules that might otherwise apply to actions filed under ~~Section~~Utah Code section 76-7-304.5

1 Draft April 29, 2021

2 Rule 47. Reviews and modification of orders.

3 (a) **Reviews.**

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

14 ~~(a)~~(2) No modification of a prior dispositional order shall be made at a paper  
15 review that would have the effect of further restricting the rights of the parent,  
16 guardian, custodian or minor, unless the affected parent, guardian custodian or  
17 minor waives the right to a hearing and stipulates to the modification. If a  
18 guardian ad litem is representing the minor, the court shall give a copy of the  
19 submitted documents to the guardian ad litem prior to the paper review.

20 (b) **Review hearings.**

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

27

(b)(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.

(b)(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 any party objects to the modification. Upon objection, the court shall schedule the matter for a motion hearing and require that a motion be filed with notice to all parties. A party requesting an evidentiary hearing shall state the request in the motion to modify the prior order or the response to the motion.

(b)(4) All cases which require periodic review hearings under ~~Title 78A Chapter 6~~ Title 80 Chapter 3 shall be scheduled for court review not less than once every six months from the date of disposition.

(c) **Disposition reviews.** Upon the written request 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 written request, must be provided to all parties not less than 5 days prior to the hearing, unless the hearing is expedited.

(d) Review of a case involving abuse, neglect, or dependency of a minor shall be conducted also in accordance with ~~Section Utah Code sections 78A-6-117~~ 80-3-407, ~~Section 78A-6-314~~ 80-3-409, and ~~Section 78A-6-315~~ 80-3-408.

**(e) Intervention plans.**

Intervention plans are plans prepared by the probation department or agencies assuming custody of the minor designed to assist the minor and/or the parent, guardian or custodian to address or correct issues that caused the court to be involved with the minor and his or her family.

**Commented [CV1]:** I did not find any references to 6-month periodic review hearings required for delinquency proceedings. I did find references to scheduling a review hearing (and presumptive termination of jurisdiction) for probation, post-adjudication and secure care in the juvenile justice section in 80-6-702(4), -703(5), and -804.

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**Commented [CV2]:** 80-3-409 is the permanency hearing statute. I believe that was added as a reference in this section because (1) permanency hearings used to be called "dispositional review hearings" (2) these hearings must be held every 12 months while the child is in state custody pursuant to federal law, and (3) they are technically a review of many issues.

**Commented [CV3]:** I could not find anything in 78A-6-117 or the re-enacted recodification sections of 78A-6-117 that referenced review hearings. I added 80-3-407 because that is a 6-month review hearing for abuse/neglect/dependency cases. There is also a reference to consider adding: 80-3-107(1)(e) which provides that no court report is required for "frequent, periodic review hearings held in a dependency drug court case...." However, I was unable to find any other statutory reference to periodic review hearings for dependency drug court.

**Commented [CV4]:** The phrase "intervention plan" used throughout this section is not used for child welfare cases, and hasn't been in the 30+ years I've been here. The statutes, and probably CARE, refer to these as "child and family plans."

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(e)(1) In all cases where the disposition order places temporary legal custody or guardianship of the minor 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 arises.

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

**Commented [CV5]:** There are probably several ways to write this phrase – I just chose what seemed simplest.

(f) **Progress reports.**

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(f)(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.

**Commented [CV6]:** This may be old terminology, although I don't know how probation or JJS characterizes their reports. In child welfare, these are now called "court reports" in the statute.

(f)(2) The progress report shall contain the following:

(f)(2)(i) A review of the original conditions, which invoked the court's jurisdiction.

(f)(2)(ii) Any significant changes in these conditions.

(f)(2)(iii) The number and types of contacts made with each family member or other person related to the case.

(f)(2)(iv) A statement of progress toward resolving the problems identified in the intervention plan.

(f)(2)(v) A report on the family's cooperation in resolving the problems.

(f)(2)(vi) A recommendation for further order by the court.

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

# TAB 3

1     **Draft April 2, 2021**

2     **Rule 8. Rights of minor while in detention.**

3     (a) A minor shall be advised of the right to telephone the minor's parent, guardian or custodian and  
4     an attorney immediately after being admitted to a detention facility.

5     (b) A minor has a right to confer in private at any time with an attorney, cleric, parent, guardian or  
6     custodian. After the initial visit, the minor may visit such persons at reasonably established visiting  
7     hours, or at other times when special circumstances so warrant.

8     (c) No person other than a probation officer or a staff member of a detention facility, unless the  
9     juvenile probation officer or the staff member is interrogating the minor on behalf of a peace officer  
10    or a law enforcement agency, shall be permitted to interview a minor ~~child under 14 years of age~~  
11    ~~held in the facility regarding an offense chargeable against the child without the child's parent,~~  
12    ~~guardian or custodian present,~~ unless:

13         (1) the minor has had a meaningful opportunity to consult with the minor's appointed or  
14         retained attorney;

15         (2) the minor waives the minor's constitutional rights after consultation with the minor's  
16         appointed or retained attorney; and

17         (3) the minor's appointed or retained attorney is present for the interrogation.

18         ~~(1) the parent, guardian or custodian has given written permission for the interview to be~~  
19         ~~held outside the presence of the child's parent, guardian, or custodian;~~

20         ~~(2) the parent, guardian or custodian had been advised of the child's constitutional rights~~  
21         ~~as provided in Rule 26(a) and has knowingly and voluntarily waived such rights; and~~

22         ~~(3) the child had been advised of the child's constitutional rights as provided in Rule 26(a)~~  
23         ~~and has knowingly and voluntarily waived such rights.~~

24     ~~(d) No person other than a probation officer or a staff member of a detention facility shall be~~  
25     ~~permitted to interview a child 14 years of age or older in a detention facility regarding an offense~~



26 ~~chargeable against the child without the consent of the child and the child's parent, guardian or~~  
27 ~~custodian after first advising said child of constitutional rights as described in Rule 26 and such~~  
28 ~~rights having been knowingly and voluntarily waived by the child.~~

29 ~~(e) If the child's parent, guardian or custodian is not available, the consent of the court shall be~~  
30 ~~obtained before interviewing a child in a detention facility.~~

Draft April 2, 2021

**Rule 27A. Admissibility of statements given by minors.**

(a) If a ~~minor child~~ is in custody for the alleged commission of an offense ~~that would be a crime if committed by an adult~~, any statement given by a ~~minor child~~ in response to ~~questions asked~~ interrogation by a police officer is inadmissible unless: ~~the police officer informed the minor of the minor's rights before questioning begins.~~

(1) the child is advised of the child's constitutional rights;

(2) the child is advised of the child's right to have a parent, guardian, or friendly adult if applicable under Utah Code section 80-6-206, present during interrogation;

(3) the child has knowingly, intelligently, and voluntarily waived the child's constitutional rights;

(4) the child's parent, guardian, or friendly adult if applicable under Utah Code section 80-6-206, was present during the child's waiver of rights;

(5) the child's parent, guardian, or friendly adult if applicable under Utah Code section 80-6-206, has given permission for the child to be interrogated; and

(6) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Utah Code section 62A-4a-415.

(b) a child's parent, guardian, or friendly adult if applicable under Utah Code section 80-6-206, is not required to be present during a child's waiver of rights or to give permission to the interrogation of a child if any of the exceptions listed in Utah Code section 80-6-206 have been met.

~~(b) If the child is under 14 years of age, the child is presumed not adequately mature and experienced to knowingly and voluntarily waive or understand a child's rights unless a parent, guardian, or legal custodian is present during waiver.~~

27 ~~(c) The presumption outlined in paragraph (b) may be overcome by a preponderance of~~  
28 ~~the evidence showing the ability of a child to comprehend and waive the child's rights.~~  
29 ~~(c)~~ The state shall retain the burden of proving that the waiver of the minor's rights was  
30 knowing and voluntary regardless of the age of the child or minor.

1 Draft April 2, 2021

2 Rule 55. Transfer of minors ~~who present a danger in detention.~~ between detention  
3 and correction facilities.

4 (a) The court may order the transfer of any minor age 16 years or older held in any  
5 detention center for minors to another place of confinement, including a jail or adult  
6 confinement facility which is certified pursuant to Utah Code ~~Ann. §section 62A-7-201~~  
7 80-6-204, upon a showing that the minor's conduct or condition endangers the safety or  
8 welfare of others in the detention center. Prior to the transfer, notice shall be given to  
9 the minor's counsel or the minor's parent, guardian or custodian in the absence of  
10 counsel, and a hearing shall be held concerning the proposed transfer. The minor shall  
11 be present at the hearing except when the transfer is held under exigent circumstances  
12 or during the non-working hours of the court. Under those circumstances, a hearing on  
13 the transfer shall be held within 48 hours after the transfer.

14 (b) Upon notification to the juvenile court by a sheriff, warden, or other official in  
15 charge of a correctional facility that an individual who is, or appears to be, under 18  
16 years of age has been received at the correctional facility, arrangements shall be made  
17 for the transfer of the individual to a detention facility, unless otherwise ordered by the  
18 juvenile court.

# TAB 4

1 Draft March 26, 2021

2 Rule 44. Findings and conclusions.

3 (a) If, upon the conclusion of an adjudicatory hearing, the court determines that the  
4 material allegations of the petition are established, it shall announce its ruling. The  
5 findings of fact upon which it bases its determination may also be announced or reserved  
6 for entry by the court in an order as provided in these Rules. In cases concerning any  
7 minor who has violated any federal, state, or local law or municipal ordinance, or any  
8 person under 21 years of age who has violated any such law or ordinance before  
9 becoming 18 years of age, findings of fact shall not be necessary. If, after such a  
10 determination, the dispositional hearing is not held immediately and the minor is in  
11 detention or shelter care, the court shall determine whether the minor shall be released  
12 or continued in detention, shelter care or the least restrictive alternative available.

13 (b) In proceedings under Utah Code sections ~~78A-6-703.3~~ 80-6-503 and ~~703.5-80-6-504~~ and  
14 permanent deprivation cases, the court shall enter findings of fact and conclusions of law  
15 with specific reference to each statutory requirement considered, setting forth the  
16 complete basis for its determination. Such findings and conclusions may be prepared by  
17 counsel at the direction of the court, but shall be reviewed and modified as deemed  
18 appropriate by the court prior to the court's acceptance and signing of the documents  
19 submitted by counsel.

20 (c) The court may at any time during or at the conclusion of any hearing, dismiss a  
21 petition and terminate the proceedings relating to the minor if such action is in  
22 the interest of justice and the welfare of the minor. The court shall dismiss any petition  
23 which has not been proven.

24 (d) After the dispositional hearing, the court shall enter an appropriate order or decree of  
25 disposition.

**Commented [BK1]:** Concern that the language suggests that finds of fact could be oral for adjudication orders. Compare to Civil Rule 52 (just note that Civil Rule 52(b) has a 28-day timeframe for motions for amended findings. Juvenile Rule 48 requires those motions under Civil Rule 52 to be made within 14 days. Just to keep in mind if we copy some provisions from Civil Rule 52 to Juvenile Rule 44).

Also 78A-6-117(1) (a&b) – (a) Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the case.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary – which was applicable to both delinquency and child welfare cases is now in 80-6-701/delinquency provisions.

Does Rule 44 include enough for child welfare cases? Do we need to modify Rule 44? In child welfare cases, adjudication/disposition orders are appealable and if findings of fact are insufficient for appellate review then the case can be remanded.

26 (e) Adjudication of a petition alleging abuse, neglect, or dependency of a child shall be  
27 conducted also in accordance with Utah Code sections ~~78A-6-309~~80-3-401 and section  
28 ~~78A-6-310~~80-3-201.

29 (f) Adjudication of a petition to review the removal of a child from foster care shall be  
30 conducted also in accordance with Utah Code section ~~78A-6-318~~80-3-502.

# TAB 5



Draft April 21, 2021

**Rule 45. ~~Pre-disposition reports and social studies~~ Dispositional Reports.**

**(a) Delinquency cases.**

(a~~1~~) Unless waived by the court, a ~~pre-dispositional~~ report shall be prepared in all proceedings which result in the filing of a petition. The ~~pre-dispositional~~ report shall be deemed waived, unless otherwise ordered, in all traffic, fish and game and boating cases, and other bailable offenses. The report shall conform to the requirements in the Code of Judicial Administration.

(b~~2~~) ~~In delinquency cases, i~~Investigation of the minor and family for the purpose of preparing the ~~pre-dispositional~~ report shall not be commenced before the allegations have been proven without the consent of the parties.

(c~~3~~) The ~~pre-dispositional~~ report shall not be submitted to or considered by the judge before the adjudication of the charges or allegations to which it pertains. If no ~~pre-dispositional~~ report has been prepared or completed before the dispositional hearing, or if the judge wishes additional information not contained in the report, the dispositional hearing may be continued for a reasonable time to a date certain.

(4) The dispositional report shall be provided to the minor's counsel, the prosecuting attorney, the guardian ad litem, if applicable, and counsel for the parent, guardian, or custodian of the minor, if applicable, at least two business days prior to the dispositional hearing. When the minor or the minor's parent, guardian, or custodian are not represented by counsel, the court may limit inspection of reports by the minor or the minor's parent, guardian, or custodian if the court determines it is in the best interest of the minor to do so.

**(b) Neglect, abuse, and dependency cases.**

(d~~1~~) For the purpose of determining proper disposition of the minor ~~and for the purpose of establishing the fact of neglect or dependency~~, written reports and

28 other material relating to the minor's mental, physical, and social history and  
29 condition may be received in evidence and may be considered by the court along  
30 with other evidence. The court may require that the person who wrote the report  
31 or prepared the material appear as a witness if the person is reasonably available.

32 (2) The juvenile court shall review and receive each dispositional report submitted  
33 by the Division of Child and Family Services in the same manner as the juvenile  
34 court receives and receives a report described in Utah Code section 80-6-307.

35 (3) If the dispositional report is determined to be an ex parte communication with  
36 a judge, the report is considered a communication authorized by law.

37 ~~(e) The pre-dispositional report and social studies shall be provided by the author to the~~  
38 ~~minor's counsel, the prosecuting attorney, the guardian ad litem, and counsel for the~~  
39 ~~parent, guardian or custodian of the minor at least two days prior to the dispositional~~  
40 ~~hearing. When the minor or the minor's parent, guardian or custodian are not represented~~  
41 ~~by counsel, the court may limit inspection of reports by the minor or the minor's parent,~~  
42 ~~guardian or custodian if the court determines it is in the best interest of the minor to do~~  
43 ~~so.~~

# TAB 6

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

Utah R. Juv. P. Rule 25

Rule 25. Pleas

Effective: May 1, 2019

[Currentness](#)

**(a)** A minor may tender a denial of the alleged offense, may tender an admission of the alleged offense, or may, with the consent of the court, tender a plea of no contest which shall have the effect set forth in [Utah Code Section 77-13-2](#). If the minor declines to plead, the court shall enter a denial. Counsel for the minor may enter a denial in the absence of the minor, parent, guardian or custodian.

**(b)** When denial is entered, the court shall set the matter for a trial hearing or for a pre-trial conference.

**(c)** The court may refuse to accept an admission or a plea of no contest and may not accept such plea until the court has found:

(1) that the right to counsel has been knowingly waived if the minor is not represented by counsel;

(2) that the plea is voluntarily made;

(3) that the minor and, if present, the minor's parent, guardian, or custodian, have been advised of, and the minor understands and has knowingly waived, the right against compulsory self-incrimination, the right to be presumed innocent, the right to a speedy trial, the right to confront and cross-examine opposing witnesses, the right to testify and to have process for the attendance of witnesses;

(4) that the minor and, if present, the minor's parent, guardian, or custodian have been advised of the consequences which may be imposed after acceptance of the admission of the alleged offense or plea of no contest;

(5) that the minor understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements;

(6) that there is a factual basis for the plea; and

(7) where applicable, the provisions of paragraph (c) have been met.

**(d)** The minor may be allowed to tender an admission to a lesser included offense, or an offense of a lesser degree or a different offense which the court may enter, after amending the petition.

**(e)** Plea discussions and agreements are authorized in conformity with the provisions of Utah Rule of Criminal Procedure 11. The prosecuting attorney may enter into discussions and reach a proposed plea agreement with the minor through the minor's counsel, or if the minor is not represented by counsel, directly with the minor. However, the prosecuting attorney may not enter into settlement discussions with a minor not represented by counsel unless the parent, guardian or custodian is advised of the discussion and given the opportunity to be present.

**(f)** A minor may tender an admission which is not entered by the court for a stated period of time. Conditions may be imposed upon the minor in that period of time and successful completion of the conditions set shall result in dismissal upon motion. If the minor fails to complete the conditions set, the admission shall be entered and the court shall proceed to order appropriate dispositions.

#### **Credits**

[Adopted effective January 1, 1995. Amended effective November 1, 2002; April 1, 2009. Advisory committee notes deleted effective May 1, 2019.]

#### [Notes of Decisions \(11\)](#)

Utah Rules of Juvenile Procedure Rule 25, UT R JUV Rule 25  
Current with amendments received through May 1, 2021

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

Utah R. Juv. P. Rule 25A

Rule 25A. Withdrawal of Plea

Currentness

- (a) A denial of an offense may be withdrawn at any time prior to adjudication.
- (b)(1) An admission or a plea of no contest may be withdrawn only upon leave of the court and a showing that it was not knowingly and voluntarily made.
- (2) A request to withdraw an admission or a plea of no contest, including a plea held in abeyance, shall be made within 30 days after entering the plea, even if the court has imposed disposition. If the court has not imposed dispositional orders then disposition shall not be announced unless the motion to withdraw is denied.

**Credits**

[Adopted effective November 1, 2010.]

Utah Rules of Juvenile Procedure Rule 25A, UT R JUV Rule 25A  
Current with amendments received through May 1, 2021

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End of Document

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# TAB 7

1   **Draft May 5, 2021**

2   **Rule 11. Time limits on detention orders.**

3   (a) Preliminary inquiries and investigations shall be promptly conducted in cases  
4   involving minors ordered held in detention. Orders for detention are not of indefinite  
5   duration and shall be limited as follows.

6       (1) Minors held in detention. Unless the time period for filing a petition or holding  
7       an arraignment is extended by court order, a minor shall be released from  
8       detention if a petition is not filed within 5 working days of the date the minor was  
9       admitted to detention or an arraignment is not held within 10 days of the date the  
10      petition is filed.

11      (2) Minors placed on home detention or released with conditions. Unless extended  
12      by court order, if a petition is not filed within 30 days of the placement on home  
13      detention or the date of release from detention with conditions, the order shall  
14      terminate.

15      (3) Minors involved in a diversion in lieu of detention. If a petition is not filed  
16      within 30 days of the diversion in lieu of detention, the diversion agreement shall  
17      terminate.

18      ~~(34)~~ Minors held in detention pending disposition or placement are governed by  
19      [Utah Code](#) ~~§~~section ~~80-6-207 78A-6-113~~.

20   (b) Requests for extensions of the time period for filing a petition shall be made by means  
21   of a motion and order.



# TAB 8

West's Utah Code Annotated  
State Court Rules  
Rules of Civil Procedure (Refs & Annos)  
Part III. Pleadings, Motions, and Orders

UT Rules Civ. Proc., Rule 7A

Rule 7A. Motion to Enforce Order and for Sanctions

Effective: May 1, 2021

[Currentness](#)

**(a) Motion.** To enforce a court order or to obtain a sanctions order for violation of an order, including in supplemental proceedings under Rule 64, a party must file an ex parte motion to enforce order and for sanctions (if requested), pursuant to this rule and Rule 7. The motion must be filed in the same case in which that order was entered. The timeframes set forth in this rule, rather than those set forth in Rule 7, govern motions to enforce orders and for sanctions.

**(b) Affidavit.** The motion must state the title and date of entry of the order that the moving party seeks to enforce. The motion must be verified, or must be accompanied by at least one supporting affidavit or declaration that is based on personal knowledge and shows that the affiant or declarant is competent to testify on the matters set forth. The verified motion, affidavit, or declaration must set forth facts that would be admissible in evidence and that would support a finding that the party has violated the order.

**(c) Proposed Order.** The motion must be accompanied by a request to submit for decision and a proposed order to attend hearing, which must:

- (1) state the title and date of entry of the order that the motion seeks to enforce;
- (2) state the relief sought in the motion;
- (3) state whether the motion is requesting that the other party be held in contempt and, if so, state that the penalties for contempt may include, but are not limited to, a fine of up to \$1000 and confinement in jail for up to 30 days;
- (4) order the other party to appear personally or through counsel at a specific place (the court's address) and date and time (left blank for the court clerk to fill in) to explain whether the nonmoving party has violated the order; and
- (5) state that no written response to the motion is required but is permitted if filed within 14 days of service of the order, unless the court sets a different time, and that any written response must follow the requirements of Rule 7.

**(d) Service of the Order.** If the court issues an order to attend a hearing, the moving party must have the order, motion, and all supporting affidavits served on the nonmoving party at least 28 days before the hearing. Service must be in a manner provided

in Rule 4 if the nonmoving party is not represented by counsel in the case. If the nonmoving party is represented by counsel in the case, service must be made on the nonmoving party's counsel of record in a manner provided in Rule 5. For purposes of this rule, a party is represented by counsel if, within the last 120 days, counsel for that party has served or filed any documents in the case and has not withdrawn. The court may shorten the 28 day period if:

(1) the motion requests an earlier date; and

(2) it clearly appears from specific facts shown by affidavit that immediate and irreparable injury, loss, or damage will result to the moving party if the hearing is not held sooner.

**(e) Opposition.** A written opposition is not required, but if filed, must be filed within 14 days of service of the order, unless the court sets a different time, and must follow the requirements of Rule 7.

**(f) Reply.** If the nonmoving party files a written opposition, the moving party may file a reply within 7 days of the filing of the opposition to the motion, unless the court sets a different time. Any reply must follow the requirements of Rule 7.

**(g) Hearing.** At the hearing the court may receive evidence, hear argument, and rule upon the motion, or may request additional briefing or hearings. The moving party bears the burden of proof on all claims made in the motion. At the court's discretion, the court may convene a telephone conference before the hearing to preliminarily address any issues related to the motion, including whether the court would like to order a briefing schedule other than as set forth in this rule.

**(h) Limitations.** This rule does not apply to an order that is issued by the court on its own initiative. This rule does not apply in criminal cases or motions filed under Rule 37. Nothing in this rule is intended to limit or alter the inherent power of the court to initiate order to show cause proceedings to assess whether cases should be dismissed for failure to prosecute or to otherwise manage the court's docket, or to limit the authority of the court to hold a party in contempt for failure to appear pursuant to a court order.

**(i) Orders to Show Cause.** The process set forth in this rule replaces and supersedes the prior order to show cause procedure. An order to attend hearing serves as an order to show cause as that term is used in Utah law.

#### Credits

[Adopted December 11, 2020, effective May 1, 2021.]

Utah Rules of Civil Procedure, Rule 7A, UT R RCP Rule 7A  
Current with amendments received through May 1, 2021

West's Utah Code Annotated  
State Court Rules  
Rules of Civil Procedure (Refs & Annos)  
Part III. Pleadings, Motions, and Orders

UT Rules Civ. Proc., Rule 7B

Rule 7B. Motion to Enforce Order and for Sanctions in Domestic Law Matters

Effective: May 1, 2021

[Currentness](#)

**(a) Motion.** To enforce a court order or to obtain a sanctions order for violation of an order, a party must file an ex parte motion to enforce order and for sanctions (if requested), pursuant to this rule and Rule 7. The motion must be filed in the same case in which that order was entered. The timeframes set forth in this rule, rather than those set forth in Rule 7, govern motions to enforce orders and for sanctions. If the motion is to be heard by a commissioner, the motion must also follow the procedures of Rule 101. For purpose of this rule, an order includes a decree.

**(b) Affidavit.** The motion must state the title and date of entry of the order that the moving party seeks to enforce. The motion must be verified, or must be accompanied by at least one supporting affidavit that is based on personal knowledge and shows that the affiant is competent to testify on the matters set forth. The verified motion or affidavit must set forth facts that would be admissible in evidence and that would support a finding that the party has violated the order.

**(c) Proposed Order.** The motion must be accompanied by a request to submit for decision and a proposed order to attend hearing, which must:

- (1) state the title and date of entry of the order that the motion seeks to enforce;
- (2) state the relief sought in the motion;
- (3) state whether the motion is requesting that the other party be held in contempt and, if so, state that the penalties for contempt may include, but are not limited to, a fine of up to \$1000 and confinement in jail for up to 30 days;
- (4) order the other party to appear personally or through counsel at a specific place (the court's address) and date and time (left blank for the court clerk to fill in) to explain whether the nonmoving party has violated the order; and
- (5) state that no written response to the motion is required, but is permitted if filed at least 14 days before the hearing, unless the court sets a different time, and that any written response must follow the requirements of Rule 7, and Rule 101 if the hearing will be before a commissioner.

**(d) Service of the Order.** If the court issues an order to attend a hearing, the moving party must have the order, motion, and all supporting affidavits served on the nonmoving party at least 28 days before the hearing. Service must be in a manner provided in Rule 4 if the nonmoving party is not represented by counsel in the case. If the nonmoving party is represented by counsel in the case, service must be made on the nonmoving party's counsel of record in a manner provided in Rule 5. For purposes of this rule, a party is represented by counsel if, within the last 120 days, counsel for that party has served or filed any documents in the case and has not withdrawn. The court may shorten the 28 day period if:

(1) the motion requests an earlier date; and

(2) it clearly appears from specific facts shown by affidavit that immediate and irreparable injury, loss, or damage will result to the moving party if the hearing is not held sooner.

**(e) Opposition.** A written opposition is not required, but if filed, must be filed at least 14 days before the hearing, unless the court sets a different time, and must follow the requirements of Rule 7, and Rule 101 if the hearing will be before a commissioner.

**(f) Reply.** If the nonmoving party files a written opposition, the moving party may file a reply at least 7 days before the hearing, unless the court sets a different time. Any reply must follow the requirements of Rule 7, and Rule 101 if the hearing will be before a commissioner.

**(g) Hearing.** At the hearing the court may receive evidence, hear argument, and rule upon the motion, or may request additional briefing or hearings. The moving party bears the burden of proof on all claims made in the motion. At the court's discretion, the court may convene a telephone conference before the hearing to preliminarily address any issues related to the motion, including whether the court would like to order a briefing schedule other than as set forth in this rule.

**(h) Counter Motions.** A responding party may request affirmative relief only by filing a counter motion, to be heard at the same hearing. A counter motion need not be limited to the subject matter of the original motion. All of the provisions of this rule apply to counter motions except that a counter motion must be filed and served with the opposition. Any opposition to the counter motion must be filed and served no later than the reply to the motion. Any reply to the opposition to the counter motion must be filed and served at least 3 business days before the hearing in a manner that will cause the reply to be actually received by the party responding to the counter motion (i.e. hand-delivery, fax or other electronic delivery as allowed by rule or agreed by the parties). The party who filed the counter motion bears the burden of proof on all claims made in the counter motion. A separate proposed order is required only for counter motions to enforce a court order or to obtain a sanctions order for violation of an order, in which case the proposed order for the counter motion must:

(1) state the title and date of entry of the order that the counter motion seeks to enforce;

(2) state the relief sought in the counter motion;

(3) state whether the counter motion is requesting that the other party be held in contempt and, if so, state that the penalties for contempt may include, but are not limited to, a fine of up to \$1000 and confinement in jail for up to 30 days;

(4) order the other party to appear personally or through counsel at the scheduled hearing to explain whether that party has violated the order; and

(5) state that no written response to the countermotion is required, but that a written response is permitted if filed at least 7 days before the hearing, unless the court sets a different time, and that any written response must follow the requirements of Rule 7, and Rule 101 if the hearing will be before a commissioner.

**(i) Limitations.** This rule does not apply to an order that is issued by the court on its own initiative. This rule applies only to domestic relations actions, including divorce; temporary separation; separate maintenance; parentage; custody; child support; adoptions; cohabitant abuse protective orders; child protective orders; civil stalking injunctions; grandparent visitation; and modification actions. Nothing in this rule is intended to limit or alter the inherent power of the court to initiate order to show cause proceedings to assess whether cases should be dismissed for failure to prosecute or to otherwise manage the court's docket, or to limit the authority of the court to hold a party in contempt for failure to appear pursuant to a court order.

**(j) Orders to Show Cause.** The process set forth in this rule replaces and supersedes the prior order to show cause procedure. An order to attend hearing serves as an order to show cause as that term is used in Utah law.

#### Credits

[Adopted December 11, 2020, effective May 1, 2021.]

Utah Rules of Civil Procedure, Rule 7B, UT R RCP Rule 7B  
Current with amendments received through May 1, 2021

**Rule 5. Service and filing of pleadings and other papers.**

**(a) When service is required.**

**(1) Papers that must be served.** Except as otherwise provided in these rules or as otherwise directed by the court, the following papers must be served on every party:

(A) a judgment;

(B) an order that states it must be served;

(C) a pleading after the original complaint;

(D) a paper relating to disclosure or discovery;

(E) a paper filed with the court other than a motion that may be heard ex parte;  
and

(F) a written notice, appearance, demand, offer of judgment, or similar paper.

**(2) Serving parties in default.** No service is required on a party who is in default except that:

(A) a party in default must be served as ordered by the court;

(B) a party in default for any reason other than for failure to appear must be served as provided in paragraph (a)(1);

(C) a party in default for any reason must be served with notice of any hearing to determine the amount of damages to be entered against the defaulting party;

(D) a party in default for any reason must be served with notice of entry of judgment under Rule [58A\(g\)](#); and

(E) a party in default for any reason must be served under Rule [4](#) with pleadings asserting new or additional claims for relief against the party.

**(3) Service in actions begun by seizing property.** If an action is begun by seizing property and no person is or need be named as defendant, any service required

before the filing of an answer, claim or appearance must be made upon the person who had custody or possession of the property when it was seized.

**(b) How service is made.**

**(1) Whom to serve.** If a party is represented by an attorney, a paper served under this rule must be served upon the attorney unless the court orders service upon the party. Service must be made upon the attorney and the party if:

(A) an attorney has filed a Notice of Limited Appearance under Rule 75 and the papers being served relate to a matter within the scope of the Notice; or

(B) a final judgment has been entered in the action and more than 90 days has elapsed from the date a paper was last served on the attorney.

**(2) When to serve.** If a hearing is scheduled 7 days or less from the date of service, a party must serve a paper related to the hearing by the method most likely to be promptly received. Otherwise, a paper that is filed with the court must be served before or on the same day that it is filed.

**(3) Methods of service.**

(A) A paper is served under this rule by:

(A<sub>i</sub>) except in the juvenile court, submitting it for electronic filing, or the court submitting it to the electronic filing service provider, if the person being served has an electronic filing account;

(B<sub>ii</sub>) for a paper not electronically served under paragraph (b)(3)(A), emailing it to (i) the most recent email address provided by the person to the court and other parties under Rule 10(a)(3) or Rule 76, or by other notice, or (ii) to the email address on file with the Utah State Bar.

(B) If email service to the email address is returned as undeliverable, service must then be made by regular mail if the person to be served has provided a



mailing address. Service is complete upon the attempted email service for purposes of the sender meeting any time period;

(C) if the person's email address has not been provided to the court and other parties, or if the person required to serve the document does not have the ability to email, a paper may be served under this rule by:

(i) mailing it to the ~~person's~~ last known mailing address provided by the person to the court and other parties under Rule 10(a)(3) or Rule 76;

~~(D)~~(ii) handing it to the person;

~~(F)~~(iii) leaving it at the person's office with a person in charge or, if no one is in charge, leaving it in a receptacle intended for receiving deliveries or in a conspicuous place;

~~(F)~~(iv) leaving it at the person's dwelling house or usual place of abode with a person of suitable age and discretion who resides there; or

~~(G)~~(v) any other method agreed to in writing by the parties.

**(4) When service is effective.** Service by mail or electronic means is complete upon sending.

**(5) Who serves.** Unless otherwise directed by the court or these rules:

(A) every paper required to be served must be served by the party preparing it; and

(B) every paper prepared by the court will be served by the court.

**(c) Serving numerous defendants.** If an action involves an unusually large number of defendants, the court, upon motion or its own initiative, may order that:

(1) a defendant's pleadings and replies to them do not need to be served on the other defendants;

(2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's pleadings and replies to them are deemed denied or avoided by all other parties;

(3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice of them to all other parties; and

(4) a copy of the order must be served upon the parties.

**(d) Certificate of service.** A paper required by this rule to be served, including electronically filed papers, must include a signed certificate of service showing the name of the document served, the date and manner of service and on whom it was served. Except in the juvenile court, this paragraph does not apply to papers required to be served under paragraph (b)(5)(B) **or** when service to all parties is made under paragraph (b)(3)(A).

**Commented [NS1]:** Certificates of service change proposed. This would mean when all parties are e-filers, not certificate of service is necessary.

**(e) Filing.** Except as provided in Rule [7\(j\)](#) and Rule [26\(f\)](#), all papers after the complaint that are required to be served must be filed with the court. Parties with an electronic filing account must file a paper electronically. A party without an electronic filing account may file a paper by delivering it to the clerk of the court or to a judge of the court. Filing is complete upon the earliest of acceptance by the electronic filing system, the clerk of court or the judge.

**(f) Filing an affidavit or declaration.** If a person files an affidavit or declaration, the filer may:

(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah Code Section [46-1-16\(7\)](#);

(2) electronically file a scanned image of the affidavit or declaration;

(3) electronically file the affidavit or declaration with a conformed signature; or

(4) if the filer does not have an electronic filing account, present the original affidavit or declaration to the clerk of the court, and the clerk will electronically file a scanned image and return the original to the filer.

The filer must keep an original affidavit or declaration of anyone other than the filer safe and available for inspection upon request until the action is concluded, including any appeal or until the time in which to appeal has expired.

#### **Advisory Committee Notes**

*Note adopted 2015*

Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the document on lawyers who have an e-filing account. (Lawyers representing parties in the district court are required to have an account and electronically file documents. Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this provision documents electronically filed in juvenile court.

Although electronic filing in the juvenile court presents to the parties the documents that have been filed, the juvenile court e-filing application (CARE), unlike that in the district court, does not deliver an email alerting the party to that fact. The Board of Juvenile Court Judges and the Advisory Committee on the Rules of Juvenile Procedure believe this difference renders electronic filing alone insufficient notice of a document having been filed. So in the juvenile court, a party electronically filing a document must serve that document by one of the other permitted methods.

**Rule 10. Form of pleadings and other papers.****(a) Caption; names of parties; other necessary information.**

**(1) General caption requirements.** All pleadings and other papers filed with the court must contain a caption setting forth the name of the court, the title of the action, the file number, if known, the name of the pleading or other paper, and the name, if known, of the judge (and commissioner if applicable) to whom the case is assigned. A party filing a claim for relief, whether by original claim, counterclaim, cross-claim or third-party claim, must include in the caption the discovery tier for the case as determined under Rule 26.

**(2) Names of the parties.**

**(A) Actions other than domestic relations.** In the complaint, the title of the action must include the names of all the parties, but other pleadings and papers need only state the name of the first party on each side with an indication that there are other parties. A party whose name is not known must be designated by any name and the words "whose true name is unknown." In an action in rem, unknown parties must be designated as "all unknown persons who claim any interest in the subject matter of the action."

**(B) Domestic relations actions.** Domestic relations actions, as defined in Rule 26.1, must be captioned as follows:

(i) In petitions for divorce, annulment, separate maintenance, and temporary separation: "In the matter of the marriage of [Party A and Party B]."

(ii) In petitions to establish parentage: "In the matter of the parentage of [Child(ren)'s Initials], a child."

(iii) In petitions to otherwise establish custody and parent-time: "In the matter of [Child(ren)'s Initials], a child."

(3) **Contact information.** Every pleading and other paper filed with the court must state in the top left hand corner of the first page the name, address, email address, telephone number and bar number of the attorney or party filing the paper, and, if filed by an attorney, the party for whom it is filed.

(4) **Cover sheet.** A party filing a claim for relief, whether by original claim, counterclaim, cross-claim or third-party claim, must also file a completed cover sheet substantially similar in form and content to the cover sheet approved by the Judicial Council. The clerk may destroy the coversheet after recording the information it contains.

**(b) Paragraphs; separate statements.** All statements of claim or defense must be made in numbered paragraphs. Each paragraph must be limited as far as practicable to a single set of circumstances; and a paragraph may be adopted by reference in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials must be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

40 **(c) Adoption by reference; exhibits.** Statements in a paper may be adopted by reference  
41 in a different part of the same or another paper. An exhibit to a paper is a part thereof  
42 for all purposes.

43 **(d) Paper format.** All pleadings and other papers, other than exhibits and court-  
44 approved forms, must be 8½ inches wide x 11 inches long, on white background, with a  
45 top margin of not less than 1½ inches and a right, left and bottom margin of not less  
46 than 1 inch . All text or images must be clearly legible, must be double spaced, except  
47 for matters customarily single spaced, must be on one side only and must not be  
48 smaller than 12-point size.

49 **(e) Signature line.** The name of the person signing must be typed or printed under that  
50 person's signature. If a proposed document ready for signature by a court official is  
51 electronically filed, the order must not include the official's signature line and must, at  
52 the end of the document, indicate that the signature appears at the top of the first page.

53 **(f) Non-conforming papers.** The clerk of the court may examine the pleadings and  
54 other papers filed with the court. If they are not prepared in conformity with  
55 paragraphs (a) - (e), the clerk must accept the filing but may require counsel to  
56 substitute properly prepared papers for nonconforming papers. The clerk or the court  
57 may waive the requirements of this rule for parties appearing pro se. For good cause  
58 shown, the court may relieve any party of any requirement of this rule.

59 **(g) Replacing lost pleadings or papers.** If an original pleading or paper filed in any  
60 action or proceeding is lost, the court may, upon motion, with or without notice,  
61 authorize a copy thereof to be filed and used in lieu of the original.

62 **(h) No improper content.** The court may strike and disregard all or any part of a  
63 pleading or other paper that contains redundant, immaterial, impertinent or scandalous  
64 matter.

65 **(i) Electronic papers.**

66 (1) Any reference in these rules to a writing, recording or image includes the  
67 electronic version thereof.

68 (2) A paper electronically signed and filed is the original.

69 (3) An electronic copy of a paper, recording or image may be filed as though it were  
70 the original. Proof of the original, if necessary, is governed by the Utah Rules of  
71 Evidence.

72 (4) An electronic copy of a paper must conform to the format of the original.

73 (5) An electronically filed paper may contain links to other papers filed  
74 simultaneously or already on file with the court and to electronically published  
75 authority.

**Draft: March 24, 2021**

**Rule 3. Style of pleadings and forms.**

(a) Pleadings in the juvenile court include, but are not limited to, petitions, motions, and responsive pleadings. Pleadings and other papers filed with the juvenile court shall comply with Utah R. Civ. P 10. Pleadings and other papers in cases transferred from the district court shall show the juvenile court case number and the district court case number.

(b) Matters filed in the court shall be captioned as follows:

~~(b)~~(1) In minors' cases or private petition cases: "State of Utah, in the interest of \_\_\_\_\_, a minor under \_\_\_\_\_ years of age."

~~(b)~~(2) In cases of adults charged with any crime: "State of Utah, Plaintiff, vs. \_\_\_\_\_, Defendant."

~~(b)~~(3) In cases requesting protective orders: "\_\_\_\_\_, ~~Plaintiff~~Petitioner, vs. \_\_\_\_\_, ~~Defendant~~Respondent."

~~(b)~~(4) In adoptions: "In the matter of the adoption of \_\_\_\_\_."

~~(b)~~(5) In cases transferred from district court involving issues of custody, support and parent time: "State of Utah, in the interest of \_\_\_\_\_. In the matter of \_\_\_\_\_, ~~Plaintiff~~Petitioner, vs. \_\_\_\_\_, ~~Respondent~~Defendant."

(c) Forms used in the juvenile court shall be those standardized and adopted by the Board of Juvenile Court Judges or the Judicial Council, and may be single spaced when so authorized.



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 May 1, 2021

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 19A

Rule 19A. Motions and Orders

Currentness

**(a) Motions.** A request for an order must be made by motion. The motion must be in writing unless made during a hearing or trial, must state the relief requested, and must state the grounds for the relief requested. A written motion, other than one which may be heard ex parte, and notice of the hearing shall be served not later than seven days before the time specified for hearing, unless a different period is fixed by these rules or by court order.

**(b) Name and Content of Motion.**

(1) The rules governing captions and other matters of form in pleadings apply to motions and other papers. The moving party must title the motion substantially as: "Motion [short phrase describing the relief requested]." The motion must include the supporting memorandum. The motion must include under appropriate headings and in the following order:

(A) A concise statement of the relief requested and the grounds for the relief requested and

(B) One or more sections that include a concise statement of the relevant facts claimed by the moving party and argument citing authority for the relief requested.

(2) If the moving party cites documents or materials of any kind, relevant portions of those documents or materials must be attached to or submitted with the motion.

(3) The motion may not exceed 25 pages, not counting attachments unless a longer motion is permitted by the court.

**(c) Name and Content of Memorandum Opposing the Motion.**

(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the motion is filed unless otherwise ordered by the Court. The nonmoving party must title the memorandum substantially as "Memorandum opposing motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) A concise statement of the party's preferred disposition of the motion and the grounds supporting that disposition;

(B) One or more sections that include a concise statement of the relevant facts claimed by the nonmoving party and argument citing authority for that disposition; and

(C) Objections to evidence in the motion, citing authority for the objection.

(2) If the nonmoving party cites documents or materials of any kind, relevant portions of those documents or materials must be attached to or submitted with the memorandum.

(3) The memorandum may not exceed 25 pages, not counting attachments, unless a longer memorandum is permitted by the court.

**(d) Name and Content of Reply Memorandum.**

(1) Within 7 days after the memorandum opposing the motion is filed, unless otherwise ordered by the Court, the moving party may file a reply memorandum, which must be limited to rebuttal of new matters raised in the memorandum opposing the motion. The moving party must title the memorandum substantially as “Reply memorandum supporting motion [short phrase describing the relief requested].” The memorandum must include under appropriate headings and in the following order:

(A) A concise statement of the new matter raised in the memorandum opposing the motion;

(B) One or more sections that include a concise statement of the relevant facts claimed by the moving party not previously set forth that respond to the opposing party's statement of facts and argument citing authority rebutting the new matter

(C) Objections to evidence in the memorandum opposing the motion, citing authority for the objection; and

(D) Response to objections made in the memorandum opposing the motion, citing authority for the response.

(2) If the moving party cites any documents or materials, relevant portions of those documents or materials must be attached to or submitted with the memorandum.

(3) The reply memorandum may not exceed 15 pages, not counting attachments, unless a longer reply memorandum is permitted by the court.

**(e) Objection to Evidence in the Reply Memorandum; Response.** If the reply memorandum includes an objection to evidence, the nonmoving party may file a response to the objection no later than 7 days after the reply memorandum is filed, unless otherwise ordered by the court. If the reply memorandum includes evidence not previously set forth, the nonmoving party may file an objection to the evidence no later than 7 days after the reply memorandum is filed, and the moving party may file a response to the objection no later than 7 days after the objection is filed, unless otherwise ordered by the court. The objection or response may not be more than 3 pages.

**(f) Request to Submit for Decision.** When briefing is complete or the time for briefing has expired, either party may file a “Request to Submit for Decision” but if no party files a request, the motion will not be submitted for decision. The request to submit for decision must state whether a hearing has been requested.

**(g) Hearings.** The court may hold a hearing on any motion. A party may request a hearing in the motion, in a memorandum or in the request to submit for decision. A request for hearing must be separately identified in the caption of the document containing the request.

**(h)** The court may decide any motion at a hearing without a Request to Submit for Decision.

**(i) Notice of Supplemental Authority.** A party may file notice of citation to significant authority that comes to the party's attention after the party's motion or memorandum has been filed or after oral argument but before decision. The notice must state the citation to the authority, the page of the motion or memorandum or the point orally argued to which the authority applies, and the reason the authority is relevant. Any other party may promptly file a response, but the court may act on the motion without waiting for a response.

**(j)** 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.

**(k) Stipulated Motions.** A party seeking relief that has been agreed to by the other parties may file a stipulated motion which must

(1) Be titled substantially as: “Stipulated Motion [short phrase describing the relief requested]”

(2) Include a concise statement of the relief requested and the grounds for the relief requested

(3) Include language indicating the name of the parties that stipulated to the motion or a signed stipulation in or attached to the motion and

(4) Be accompanied by a proposed order that has been approved by the other parties.

**(l) Ex Parte Motions.** If a statute or rule permits a motion to be filed without serving the motion on the other parties, the party seeking relief may file an ex parte motion which must:

(1) Be titled substantially as: “Ex parte motion [short phrase describing relief requested]”

(2) Include a concise statement of the relief requested and the grounds for the relief requested

(3) Cite the statute or rule authorizing the ex parte motion

(4) Be accompanied by a proposed order

**(m) Orders.**

(1) *Verbal Orders.* A verbal order of the juvenile court is effective and enforceable when delivered from the bench and entered on the record in the presence of the party against whom enforcement is sought. Unless otherwise required by law or rule, a verbal order is deemed entered when recorded and may or may not be later memorialized in writing.

(2) *Written Orders.* A written order of the juvenile court is effective and enforceable when signed by the court and served on the party against whom enforcement is sought. A written order is deemed entered when filed.

(3) *Preparing, Serving, and Filing Proposed Orders.*

(A) *Orders Prepared in Open Court.* At a hearing, the court may (1) prepare a written order or (2) direct a party to prepare a written order while the parties or counsel are present. An order prepared by the court or a party in open court is effective and enforceable when signed by the court and filed. The court may permit review of the written order by the parties or counsel prior to signing. A party may object to a written order prepared in open court within 7 days of the entry of the order.

(B) *Orders Prepared Outside Court.* Following a hearing, the court may (1) prepare a written order or (2) direct a party to prepare a proposed order. Within 14 days of being directed to prepare a proposed order, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order and serve the proposed order on the other parties for review and approval as to form.

(C)(i) A party's approval as to form of a proposed order certifies the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

(ii) A party may object to the form of the proposed order by filing an objection within 7 days after the order is served.

(4) The party preparing a proposed order must file it:

(A) after all other parties have approved the form of the order, in which case the party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.

(B) after the time to object to the form of the order has expired, in which case the party preparing the proposed order must also file a certificate of service of the proposed order; or

(C) within 7 days after a party has objected to the form of the order, in which case the party preparing the proposed order may also file a response to the objection.

(5) *Proposed Order Before Decision Prohibited; Exceptions.* A party may not file a proposed order concurrently with a motion or a memorandum or a request to submit for decision, except that a proposed order must be filed with:

(A) a stipulated motion;

(B) a motion that can be acted on without waiting for a response;

(C) an ex parte motion;

(D) the request to submit for decision a motion in which a memorandum opposing the motion has not been filed.

(6) *Orders Entered Without a Response; Ex Parte Orders.* An order entered on a motion where no response was filed or required may be vacated or modified by the judge who made it with or without notice.

(7) *Order to Pay Money.* An order to pay money may be enforced in the same manner as if it were a judgment.

#### **Credits**

[Adopted effective November 1, 2017.]

Utah Rules of Juvenile Procedure Rule 19A, UT R JUV Rule 19A  
Current with amendments received through May 1, 2021



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 May 1, 2021

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