



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: October 1, 2021

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of September 3, 2021 Meeting minutes	Tab 1	David Fureigh
Discussion & Action: <ul style="list-style-type: none"> • Rule 8: Rights of minors while in detention (SC sent back to Committee) • Rule 27A: Admissibility of statements given by minors. (SC sent back to Committee) • Rule 55: Transfer of minors who present a danger in detention. (SC sent back to Committee) • <i>Attached specific portions of H.B. 285 Juvenile Code Recodification (2021) regarding minors in detention and jail, and interrogations.</i> 	Tab 2	David Fureigh
Action: Rule 37: Child Protective Orders <ul style="list-style-type: none"> • <i>Back from public comment; no comments</i> • <i>Attached Juvenile Rules Committee Meeting Minutes from 2014-2017 that included discussion regarding Rule 37(d).</i> 	Tab 3	Bridget Koza
Discussion & Action: Rule 45: Pre-disposition reports and social studies. <ul style="list-style-type: none"> • <i>Attached H.B. 285 Recodification changes to disposition reports</i> 	Tab 4	Sophia Moore Matthew Johnson
Discussion: Rule 25: Pleas and Rule 25A: Withdrawal of Plea	Tab 5	Bridget Koza

Discuss any changes needed since language will be incorporated in to Juvenile Code due to H.B. 285 Juvenile Recodification.		
Discussion: Rule 7: Warrants <ul style="list-style-type: none"> Amending to allow for ex parte motions to vacate runaway E-warrants for youth in DCFS custody who have active warrants and have either returned to placement, aged out and DFCS custody is terminated, court jurisdiction is terminated, or a new E-warrant is needed for a different return location. 	Tab 6	David Fureigh
Discussion: Changes to Civil Rules 5, 7A, 7B, and 10 <ul style="list-style-type: none"> Civil Rules 7A: Motion to Enforce Order and for Sanctions and 7B: Motion to Enforce Order and for Sanctions in Domestic Law Matters (effective May 1, 2021) Civil Rule 5: Service and Filing of Pleading and Other Papers (effective November 1, 2021) Civil Rule 10: Form of Pleadings and Other Papers (effective May 1, 2022) <p>Discuss impact to Juvenile Rules as well as if specific Civil Rules should be applicable in juvenile court as to change Juvenile Rule 2.</p>	Tab 7	Bridget Koza
Discussion: Old business or new business		All

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

Meeting Schedule:

November 5, 2021

December 3, 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: September 3, 2021

Time: 12:00 pm – 2:00 pm

Attendees: David Fureigh, Chair Judge Paul Dame Michelle Jeffs Matthew Johnson Jordan Putnam Mikelle Ostler Janette White Chris Yanelli Carol Verdoia, Emeritus Member	Excused Members: Arek Butler Kristin Fadel Judge Debra Jensen Sophia Moore
Staff: Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	Guests: Jacqueline Carlton, Office of Legislative Research and General Counsel

1. Welcome and approval of the August 6, 2021 Meeting minutes: (David Fureigh)

David welcomed everyone to the meeting. Bridget Koza introduced Savannah Schoon as the new juvenile court law clerk. David asked for approval of the minutes.

Judge Dame motioned to approve the minutes with the amendment to add in “21” after the word Rule in the second to last paragraph on page 3. Chris seconded the motion with the amendment and it passed unanimously.

2. Action: Rule 5: Definitions, Rule 7: Warrants, and Rule 50: Presence at hearings:
(David Fureigh)

David reviewed with committee that Rules 5, 7, and 50 were sent out for comment and no comments were received. David discussed approving the updated statutory references in the Rules for final publication since the Juvenile Code Recodification went into effect on September 1, 2021, and the committee can discuss substantive changes to these Rules at a later meeting.

Judge Dame suggested updating the statutory reference in line 5 from “80-3-301 et seq” to “Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings” because Utah Code section 80-3-301 deals with shelter hearings and the statutory reference should cite to whole chapter. He also suggested updating the statutory reference in line 6 from “80-4-101 et seq” to “Title 80, Chapter 4, Termination and Restoration of Parental Rights” so the statutory references in paragraph (a) are consistent. The committee discussed whether these changes would be consistent with the Supreme Court’s style guide for court rules. Bridget reported generally code cross references should be avoided unless they bring clarity, consistency, or controlling standards into rules and cross references should not cite to specific paragraphs. Bridget will send out the style guide to new members.

Judge Dame also discussed that proposed change to the definition of disposition in lines 19-20 could be confusing. The committee discussed whether the definition should be removed since the language is now in the Juvenile Code, but agreed to address this at a later meeting since other rules have definitions taken directly from statute. The committee discussed how to address the possible confusion. David suggested changing “pursuant to” to “as defined in” in line 19 so that there is clarity.

Chris Yanelli moved to present the revised Rule 5 (Draft September 3, 2021) with changes to the statutory references in lines 5-6 and changing “pursuant to” to “as defined in” in line 19 to the Supreme Court for final publication effective immediately. Janette White seconded the motion, and it passed unanimously.

The committee discussed whether Rule 7 can be finalized and sent to the Supreme Court for final publication. The committee agreed it could be finalized. Judge Dame and David both have potential substantive changes to Rule 7 regarding unsealing child welfare removal warrants and vacating runaway warrants in child welfare cases, respectively, that be discussed at a future meeting.

Judge Dame moved to request that the Supreme Court approve Rule 7 (Draft June 22, 2021) for final publication effectively immediately. Matt Johnson seconded the motion, and it passed unanimously.

David Fureigh discussed with the committee whether Rule 50 can be finalized for and sent to the Supreme Court for final publication. Bridget discussed Arek Butler’s proposed change in paragraph (f)(2)(A) – changing “presenting” to “being present” so that the change would align the language with Civil Rule 24 and match the intent of the original language in Rule 50. Judge Dame also discussed with the committee proposed changes to Rule 50 that would reformat paragraph (a) and remove language in paragraphs (b) and (c) since that language is directly from the statute. The committee agreed to discuss these proposed changes at a future meeting so that the statutory references in Rule 50 can be updated since the Juvenile Code recodification went into effect on September 1, 2021.

Matthew Johnson moved to present the revised Rule 50 (Draft September 3, 2021) with the change in paragraph (f)(2)(A) – changing “presenting” to “being present” – to the Supreme Court for final publication effective immediately. Judge Dame seconded the motion, and it passed unanimously.

3. Action: Rule 11: Time limits on detention orders: (David Fureigh)

David reviewed with committee that Rule 11 was sent out for comment and one comment was received. Judge Dame agreed with the comment and suggested two proposed changes: 1) adding “or a non-judicial adjustment is not entered into” to the end of the sentence on line 16 or 2) re-writing lines 14-16 to instead say “the diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a petition is not filed or a non-judicial adjustment is not entered into. The diversion agreement shall so specify.” The committee discussed background information regarding how diversion agreements occur, why the change was proposed initially, and if the Rule should just say that the diversion agreement terminate within 30 days without any qualifiers. Chris proposed a stylistic change to Judge Dame’s second proposed change – “The diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a non-judicial adjustment is not entered into or if a petition is not filed. The diversion agreement shall so specify.”

Judge Dame motioned to present the revised Rule 11 (Draft September 3, 2021) with the changes to lines 15-17, should state that “The diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a non-judicial adjustment is not entered into or if a petition is not filed. The diversion agreement shall so specify.” to the Supreme Court for approval to be sent out for additional 45-day comment period. Janette White seconded the motion, and it passed unanimously.

4. Action: Rule 60: Judicial bypass procedure to authorize minor to consent to an abortion: (David Fureigh)

David reviewed with committee that Rule 60 was sent out for comment and two comments received. The committee discussed why the changes were proposed initially in lines 16 and 17 and how Judge Lindsley has received feedback from another juvenile judge regarding the timeframes in lines 16 and 17 can be challenging to comply with. The committee asked Judge Dame to get more feedback from other juvenile judges to understand if other judges have experienced issues with the timeframes in lines 16 and

17. The committee also discussed how the timeframes have been in place for several years and given the language in current Rule 4 and previous versions, the timeframes in lines 16 and 17 have always included counting weekends and holidays.

The committee discussed removing the proposed changes to the timeframes in lines 16 and 17 for the time being so that the updated statutory references can be approved by the Supreme Court for final approval since the Juvenile Code recodification went into effect on September 1, 2021. The committee will discuss proposed changes to the timeframes at a future meeting once more information is gathered from the juvenile judges.

David and Bridget will reach out the ACLU and Planned Parenthood regarding the committee's agreement to remove the proposed changes to the timeframes in lines 16 and 17 for the time being.

Janette White moved to present the revised Rule 60 (Draft September 3, 2021) with the removal of the proposed changes in lines 16 and 17 – taking out the amendments of “business” – and present the updated statutory references to the Supreme Court for final publication effective immediately. Matthew Johnson seconded the motion, and it passed unanimously.

5. Discussion & Action: Rule 8: Rights of minors while in detention, Rule 27A:

Admissibility of statements given by minors, and Rule 55: Transfer of minors who present a danger in detention: (David Fureigh)

David reviewed with the committee feedback from the Supreme Court for Rules 8, 27A, and 55 regarding substantive provisions not being included in the Rules. The committee starting to discuss Rule 8 and which paragraphs were now incorporated into statute under Utah Code sections 80-6-205 and 80-6-206. The committee reviewed both sections and discussed that most paragraphs from Rule were incorporated into those sections except for paragraph (a).

The committee agreed to continue discussing this agenda item and agreed that the agenda item will be put on the October 3, 2021 meeting.

6. Action: Rule 37: Child Protective Orders: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

7. 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 agreed that the agenda item will be put on the October 1, 2021 meeting.

8. Discussion: Amending Rule 7: Warrants to allow for ex parte motion to vacate runaway E-Warrants for youth in DCFS custody who have active warrants and have either returned to placed, aged out and DCFS custody is terminated, court jurisdiction is terminated, or new E-Warrant is needed: (David Fureigh)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

9. Discussion: Rule 25: Pleas and Rule 25A: Withdrawal of Plea: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

10. Discussion: Changes to Civil Rules 5, 7A, 7B, and 10 and Impact on Juvenile Rules: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

The meeting adjourned at 2:03 pm. The next meeting will be held on October 1, 2021, at 12 pm via Webex.

TAB 2

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.~~

1 Draft September 7, 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
4 custodian and an attorney immediately after being admitted to a detention facility.

5 Immediately after being admitted to a detention facility, a minor shall be advised of
6 their rights listed in Utah Code section 80-6-205.

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

Commented [BK1]: 80-6-205(8)

11 (c) The interview of a child held in a detention facility is governed by Utah Code section
12 80-6-206. ~~No person other than a probation officer or a staff member of a detention~~
13 ~~facility shall be permitted to interview a child under 14 years of age held in the facility~~
14 ~~regarding an offense chargeable against the child without the child's parent, guardian~~
15 ~~or custodian present, unless:~~

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

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

22 (3) ~~the child had been advised of the child's constitutional rights as provided in~~
23 ~~Rule 26(a) 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~~
25 ~~shall be permitted to interview a child 14 years of age or older in a detention facility~~
26 ~~regarding an offense chargeable against the child without the consent of the child and~~

27 ~~the child's parent, guardian or custodian after first advising said child of constitutional~~
28 ~~rights as described in Rule 26 and such rights having been knowingly and voluntarily~~
29 ~~waived by the child.]~~

Commented [BK2]: 80-6-206(5)

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

Commented [BK3]: 80-6-206(5)

32 **ADVISORY COMMITTEE NOTES**

33 *[The limitation on interviews is intended to extend to interviews regarding the charges for which*
34 *the minor is being detained and any other charges under investigation.]*

35 *This rule evolved from former Rule 10 at a time when the court was responsible for admission to*
36 *detention. That responsibility now belongs to the Division of Juvenile Justice Services, which has*
37 *established admission guidelines. [Utah Administrative Rules R547-13-1 et seq.](#) This rule and*
38 *former Rule 10 balance the important rights of the minor with those of the public. Because these*
39 *provisions have historically been found in the juvenile court rules, they have not yet been*
40 *incorporated into any other rule or statute. Until the Legislature or the Division of Juvenile*
41 *Justice Services acts to restate these provisions, it is necessary that they be stated here.]*

Commented [BK4]: Consider deleting or rewording advisory committee note.

1 Draft April 2, 2021

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

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

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

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

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

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

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

16 ~~(6) if the child is in the custody of the Division of Child and Family Services and a~~
17 ~~guardian ad litem has been appointed for the child, the child's guardian ad litem~~
18 ~~has given consent to an interview of the child as described in Utah Code section~~
19 ~~62A-4a-415.~~

20 ~~(b) a child's parent, guardian, or friendly adult if applicable under Utah Code section 80-~~
21 ~~6-206, is not required to be present during a child's waiver of rights or to give permission~~
22 ~~to the interrogation of a child if any of the exceptions listed in Utah Code section 80-6-206~~
23 ~~have been met.~~

24 ~~(b) If the child is under 14 years of age, the child is presumed not adequately mature and~~
25 ~~experienced to knowingly and voluntarily waive or understand a child's rights unless a~~
26 ~~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 September 7, 2021

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

3 ~~(a) If a minor is in custody for the alleged commission of an offense that would be a crime~~
4 ~~if committed by an adult, any statement given by a minor in response to questions asked~~
5 ~~by a police officer is inadmissible unless the police officer informed the minor of the~~
6 ~~minor's rights before questioning begins. The interrogation of a child for an offense is~~
7 ~~governed by Utah Code section 80-6-206.~~

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

11 ~~(c) The presumption outlined in paragraph (b) may be overcome by a preponderance of~~
12 ~~the evidence showing the ability of a child to comprehend and waive the child's rights.)~~

13 ~~(d) The state shall retain the burden of proving that the waiver of the minor's child's~~
14 ~~constitutional rights was knowing, ~~and~~ voluntary, and satisfied the requirements~~
15 ~~outlined in Utah Code section 80-6-206, regardless of the age of the child or minor.~~

Commented [BK1]: 80-6-206(1-4)

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.

1 Draft June 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~~
5 ~~any detention center for minors to another place of confinement, including a jail~~
6 ~~or adult confinement facility which is certified pursuant to Utah Code Ann. §~~
7 ~~62A-7-201 80-6-204, upon a showing that the minor's conduct or condition~~
8 ~~endangers the safety or welfare of others in the detention center. Prior to the~~
9 ~~transfer, notice shall be given to the minor's counsel or the minor's parent,~~
10 ~~guardian or custodian in the absence of counsel, and a hearing shall be held~~
11 ~~concerning the proposed transfer. The minor shall be present at the hearing~~
12 ~~except when the transfer is held under exigent circumstances or during the non-~~
13 ~~working hours of the court. Under those circumstances, a hearing on the transfer~~
14 ~~shall be held within 48 hours after the transfer. A minor under 18 years of age~~
15 ~~may not be held at a correctional facility except as provided in Utah Code~~
16 ~~sections 80-6-502, 80-6-504 or 80-6-505.~~

17
18 ~~(b) Upon notification to the juvenile court by a sheriff, warden, or other official~~
19 ~~in charge of a correctional facility that an individual who is, or appears to be,~~
20 ~~under 18 years of age has been received at the correctional facility, arrangements~~
21 ~~shall be made for the transfer of the individual to a detention facility, unless~~
22 ~~otherwise ordered by the juvenile court, A minor under 18 years of age received~~
23 ~~at a correctional facility, shall be transferred to a detention facility pursuant to~~
24 ~~Utah Code Section 80-6-204, except as otherwise provided by law.~~

25

Effective 9/1/2021

80-6-204 Detention or confinement of a minor -- Restrictions.

- (1) Except as provided in Subsection (2) or this chapter , if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:
 - (a) in a jail, lockup, or cell used for an adult who is charged with a crime; or
 - (b) in secure care .
- (2)
 - (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:
 - (i) the child is charged with an offense under Section 80-6-502 or 80-6-503;
 - (ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and
 - (iii) the juvenile or district court orders the detention of the child.
 - (b)
 - (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.
 - (ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.
 - (iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.
 - (iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (3)
 - (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation.
 - (b) An accommodation described in Subsection (3)(a) shall be used only:
 - (i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and
 - (ii) for a maximum confinement period of six hours.
 - (c) A child may only be held in an accommodation described in Subsection (3)(a) for:
 - (i) identification;
 - (ii) notification of a juvenile court official;
 - (iii) processing; and
 - (iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.
 - (d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (4)
 - (a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, the child may be detained in a holding room in a local law enforcement agency facility:
 - (i) for a maximum of two hours; and
 - (ii)
 - (A) for identification or interrogation; or
 - (B) while awaiting release to a parent or other responsible adult.

- (b) A holding room described in Subsection (4)(a) shall be certified by the commission in accordance with the commission's rules.
 - (c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.
- (5) Willful failure to comply with this section is a class B misdemeanor.
- (6)
- (a) The division is responsible for the custody and detention of:
 - (i) a child who requires detention before trial or examination, or is placed in secure detention after an adjudication under Section 80-6-704; and
 - (ii) a juvenile offender under Subsection 80-6-806(7).
 - (b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
 - (c)
 - (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).
 - (ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.
 - (d)
 - (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.
 - (ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:
- (a) immediately notify the juvenile court of the individual; and
 - (b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

Effective 9/1/2021

80-6-205 Admission to detention -- Alternative to detention -- Rights of a minor in detention.

- (1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:
 - (a) admit the minor to secure detention;
 - (b) admit the minor to home detention;
 - (c) place the minor in another alternative to detention; or
 - (d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.
- (2) A minor may not be admitted to detention unless:
 - (a) the minor is detainable based on the detention guidelines; or
 - (b) the minor has been brought to detention in accordance with:
 - (i) a court order;
 - (ii) a warrant in accordance with Section 80-6-202; or
 - (iii) a division warrant in accordance with Section 80-6-806.
- (3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.
- (4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.
- (5)
 - (a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.
 - (b)
 - (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.
 - (ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:
 - (a) immediately notify the minor's parent, guardian, or custodian; and
 - (b) promptly notify the juvenile court of the placement.
- (7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.
- (8)
 - (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:
 - (i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and
 - (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.
 - (b) The division may:

- (i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);
- (ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;
- (iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or
- (iv) limit the minor's rights under Subsection (8)(a) if a compelling reason exists to limit the minor's rights.

Enacted by Chapter 261, 2021 General Session

Effective 9/1/2021

**80-6-206 Interview of a child -- Presence of a parent, legal guardian, or other adult --
Interview of minor in a facility.**

(1) As used in this section:

(a)

(i) "Friendly adult" means an adult:

(A) that has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(b)

(i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is in custody and subject to interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is in custody and subject to interrogation of an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) 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 Section 62A-4a-415.

(4) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time in which the child is in custody.

(5)

- (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed to secure care or a correctional facility, and is subject to interrogation for an offense, the minor may not be interrogated unless:
 - (i) the minor has had a meaningful opportunity to consult with the minor's appointed or retained attorney;
 - (ii) the minor waives the minor's constitutional rights after consultation with the minor's appointed or retained attorney; and
 - (iii) the minor's appointed or retained attorney is present for the interrogation.
- (b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the minor on behalf of a peace officer or a law enforcement agency.
- (6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Enacted by Chapter 261, 2021 General Session

Amended by Chapter 261, 2021 General Session, (Coordination Clause)

Effective 9/1/2021

80-6-502 Criminal information for a minor in district court.

- (1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the criminal information alleges:
 - (a) the minor was 16 or 17 years old at the time of the offense; and
 - (b) the offense for which the minor is being charged is:
 - (i) Section 76-5-202, aggravated murder; or
 - (ii) Section 76-5-203, murder.
- (2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:
 - (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and
 - (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (3)
 - (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a detention facility.
 - (b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:
 - (i) until released by the district court; or
 - (ii) if convicted, until sentencing.
- (4) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:
 - (a) advise the minor of the right to bail; and
 - (b) set initial bail in accordance with Title 77, Chapter 20, Bail.
- (5) If a minor held in a detention facility under Subsection (3)(a) attains the age of 21 years old, the minor shall be transferred within 30 days to an adult jail until:
 - (a) released by the district court; or
 - (b) if convicted, sentencing.
- (6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.
- (7) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:
 - (a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and
 - (b) the division gains jurisdiction over the minor.

Amended by Chapter 2, 2021 Special Session 1

Effective 9/1/2021

80-6-504 Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

- (1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503 , the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.
- (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:
 - (a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and
 - (b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.
- (3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:
 - (a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1) , or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605 ;
 - (b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;
 - (c) the minor's mental, physical, educational, trauma, and social history;
 - (d) the criminal record or history of the minor; and
 - (e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.
- (4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.
- (5)
 - (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.
 - (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.
- (6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).
- (7)
 - (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.
 - (b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.
- (8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.
- (9)
 - (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:
 - (i) proceed upon the criminal information as if the information were a petition under Section 80-6-305 ;

- (ii) release or detain the minor in accordance with Section 80-6-207 ; and
 - (iii) proceed with an adjudication for the minor in accordance with this chapter.
 - (b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.
- (10)
- (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.
 - (b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):
 - (i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and
 - (ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.
- (11) If a grand jury indicts a minor for a qualifying offense:
- (a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and
 - (b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).
- (12) If a minor is bound over to the district court, the juvenile court shall:
- (a) issue a criminal warrant of arrest for the minor to be held in a detention facility;
 - (b) advise the minor of the right to bail; and
 - (c) set initial bail in accordance with Title 77, Chapter 20, Bail.
- (13) If the juvenile court orders the minor to be detained until the time of trial:
- (a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and
 - (b) the minor shall remain in the detention facility:
 - (i) until released by a district court; or
 - (ii) if convicted, until sentencing.
- (14) If a minor is held in a detention facility under Subsection (13) and the minor attains the age of 21 years old while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:
- (a) until released by the district court; or
 - (b) if convicted, until sentencing.
- (15) Except as provided in Subsection (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.
- (16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:
- (a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and
 - (b) the division regains jurisdiction over the minor.

Amended by Chapter 2, 2021 Special Session 1

Effective 9/1/2021

80-6-505 Criminal proceedings for a minor bound over to district court.

- (1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504 , the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:
 - (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and
 - (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.
- (3) If a minor is bound over to the district court and detained in a detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.
- (4) If the district court obtains jurisdiction over a minor under Section 80-6-504 , the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

Amended by Chapter 2, 2021 Special Session 1

TAB 8

1 **Rule 37. Child protective orders.**

2 (a) Child protective order proceedings are governed by ~~Section~~ Utah Code section 78B-7-
3 201 et seq. Protective order proceedings may be commenced as an independent action by
4 filing a petition. Any interested person may file a petition for a protective order on behalf
5 of a child as provided by statute. The petitioner shall first make a referral to the division.
6 If an immediate ex parte protective order is requested pending a hearing, the petition or
7 an accompanying affidavit shall set forth the facts constituting good cause for issuance of
8 the ex parte order.

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

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

15 (d) The petitioner, if a private person or agency, and the respondent may be represented
16 by retained counsel. Subject to the limitations ~~in Section 78A-6-1111~~ under the law, the
17 Court may appoint counsel for an indigent respondent who is a parent, guardian or
18 custodian of the child alleged to be abused or threatened with abuse. If the court finds in
19 the hearing that the allegations of the petition have been established, the court may assess
20 petitioner's costs and attorney fees against the respondent. If the court finds that the
21 petition is without merit, the respondent's costs and attorney fees may be assessed against
22 petitioner.

23 (e) If an ex parte order has been issued, the hearing must be held within 21 days
24 ~~excluding Saturdays, Sundays and legal holidays.~~

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

[HOME](#)

[LINKS](#)

Posted: June 16, 2021

Utah Courts

Search...

SEARCH

Rules of Juvenile Procedure – Comment Period Closed July 31, 2021

URJP021. Warrant of arrest or summons in cases under Utah Code section 78A-6-703.3. Amend. Updates statutory references affected by H.B. 285 Juvenile Code Recodification (2021) and changes terminology regarding detention and correctional facilities to align with statutory language.

URJP037. Child protective orders. Amend. Updates statutory references affected by H.B. 285 Juvenile Code Recodification (2021) and changes the time frame for holding a hearing after granting an ex party child protective order to align with statutory changes in H.B. 255 Protective Order Revisions (2021).

This entry was posted in [-Rules of Juvenile Procedure, URJP021, URJP037.](#)

[« Rules of Civil Procedure – Comment Period Closes August 5, 2021](#)

[Rules of Evidence – Comment Period Closed July 22, 2021 »](#)

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- [-Alternate Dispute Resolution](#)
- [-Code of Judicial Administration](#)
- [-Code of Judicial Conduct](#)
- [-Fourth District Court Local Rules](#)
- [-Licensed Paralegal Practitioners Rules of Professional Conduct](#)
- [-Rules Governing Licensed Paralegal Practitioner](#)
- [-Rules Governing the State Bar](#)

UTAH COURTS

[View more posts from this author](#)

- -Rules of Appellate Procedure
- -Rules of Civil Procedure
- -Rules of Criminal Procedure
- -Rules of Evidence
- -Rules of Juvenile Procedure
- -Rules of Professional Conduct
- -Rules of Professional Practice
- -Rules of Small Claims Procedure
- ADR101
- ADR103
- Appendix B
- Appendix F
- CJA Appendix F
- CJA01-0201
- CJA01-0204
- CJA01-0205
- CJA01-0205
- CJA01-0303
- CJA01-0304
- CJA01-0305
- CJA010-01-0404
- CJA010-1-020
- CJA02-0103
- CJA02-0104
- CJA02-0106.01
- CJA02-0106.02
- CJA02-0106.03
- CJA02-0106.04
- CJA02-0106.05
- CJA02-0204
- CJA02-0206
- CJA02-0208
- CJA02-0208
- CJA02-0211
- CJA02-0212
- CJA03-0101
- CJA03-0102
- CJA03-0103
- CJA03-0103
- CJA03-0104
- CJA03-0105
- CJA03-0106
- CJA03-0106
- CJA03-0107
- CJA03-0108
- CJA03-0109
- CJA03-0111
- CJA03-0111.01
- CJA03-0111.02
- CJA03-0111.03

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

June 6, 2014

Noon to 2:00 p.m.

Conference Room A

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey (by telephone)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Paul Wake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Joan Carroll	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narda Beas-Nordell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Excused		GUESTS:	Present		
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Tim Shea	<input checked="" type="checkbox"/>		
Emily Iwasaki	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Thomas Gunter	<input checked="" type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		

AGENDA TOPIC

I. Welcome, Introduction of New Members & Approval of Minutes	CHAIR: CAROL VERDOIA	
<p>Carol Verdoia introduced three new members who were recently appointed to the committee. Judge Mary Manley is replacing Judge Larry Steele. New GAL attorneys, Debra Jensen and Kristin Fadel are completing the unexpired terms of Brent Bartholomew and Sterling Corbett.</p>		
Motion: To approve the minutes of February 7, 2014 as written	By: Paul Wake	Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor Opposed

AGENDA TOPIC

II. Rule 23A-Hearing on Conditions of Section 78A-6-702; Bind Over to District Court	JUDGE LINDSLEY
<p>The committee previously completed revisions to Rule 23A. Before the revisions could be sent out for comment, the legislature amended 78A-6-702 for a second time. The recent revisions to statute require the committee to revisit Rule 23A.</p>	
<p>Judge Lindsley proposed that both Rule 23 and 23A should be revised. After a short discussion, she suggested that an additional subparagraph (f) be added to Rule 23 and an additional subparagraph (h) be added to Rule 23A.</p>	
<p>MOTION: Judge Lindsley made a motion to revise Rule 23A by adding a new subsection (h) to read "Once the minor is bound over to district court a determination regarding where the minor is held shall be made pursuant to 78A-6-702." Paul Wake seconded the motion. Discussion followed and Pam Vickrey suggested that in Rule 23A the new language should be designated as (f)(2), and the existing subparagraphs (f)(2) and (f)(3) be renumbered as (f)(3) and (f)(4). In Rule 23, the additional language should be added at (d)(2) with the remaining subparagraphs renumbered, rather</p>	

AGENDA TOPIC

IV. New Business	BRENT HALL; CAROL VERDOIA
<p>Brent Hall raised an issue regarding recent legislative revisions to 78A-6-1111 concerning representation of parents in juvenile court. Mr. Hall asked the committee to consider whether Rule 37(d) regarding child protective orders is in conflict with the new statute and if so, whether Rule 37(d) should be revised. Rule 37(d) states, "Counsel may be appointed by the court for an indigent respondent who is a parent, guardian or custodian of the child alleged to be abuse or threatened with abuse." Members acknowledged that a discussion is needed regarding whether child protective orders are outside the juvenile court statute and therefore, appointing counsel in a child protective order may not be precluded by the revised version of 78A-6-1111. Members agreed to add this item to the next meeting agenda to discuss the statute and rule further.</p> <p>Carol Verdoia addressed an issue raised by one of the attorneys in the AG's office concerning discovery pursuant to URJP 20A(d). Rule 20A makes reference to the Rules of Civil Procedure, but the civil procedure rules have been revised to a tier system since the URJP Committee last considered the provisions of URJP 20A. Brent Hall proposed that when addressing scope, the committee add language after URJP 20A(a) stating that the limits on fact discovery should be governed by URCP 26(c)(5). Members agreed to consider the issue further and bring it back for discussion at the next meeting. Brent Hall also mentioned the need to revise URJP 2(a) to substitute the phrase "termination of parental rights" for "permanent deprivation of parental rights."</p> <p>Katie Gregory announced that Joan Carroll, the committee's representative from the Juvenile Clerks of Court, will be retiring on June 30. Ms. Gregory will contact the Clerks of Court to solicit a volunteer to replace Ms. Carroll.</p> <p>The next meeting was set for August 1, 2014 from noon to 2:00 p.m.</p>	

circumstances and clarifying whose right it is to assert a waiver (parent or child).
Moving an item to the list that says you can't waive takes away discretion

MOTION: Judge Lindsley made a motion to revised Rule 29B as follows: In section (a)(3) delete "law and" and revised paragraph (b) to read "Except as provided in paragraph (a), upon motion of a party and for good cause shown, the court may conduct any delinquency hearing or hearing under Section 78A-6-702 or Section 78A-6-703 with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location if the minor or the minor's parent, guardian or custodian waives attendance in person." The remainder of paragraph (b)(1) through (b) (11) containing the list of hearing types is deleted. Alan Sevison seconded the motion and it passed unanimously.

The committee then engaged in a discussion on the issue of waiver, noting that both the parents and the child have independent rights to be present. While they cannot waive for each other, the child's attorney can file a motion for a parent asking to waive the parent's attendance and attach an affidavit signed by the parent. Alan Sevison proposed the following language: "Except as provided in paragraph (a), upon motion of a party and for good cause shown the court may permit a party or a minor's parent, guardian or custodian to attend any delinquency hearing or any hearing under Section 78A-6-702 or Section 78A-6-703 by contemporaneous transmission from a different location." Mr. Sevison agreed to review the language further and send any proposed changes to Katie Gregory for circulation prior to the next meeting.

AGENDA TOPIC

III. Impact of 78A-6-1111 on Rule 37(d)	BRENT HALL
<p>Brent Hall provided an overview of recent revisions to 78A-6-1111 on the ability to appointment of defense counsel in child protective order proceedings. The revisions prohibit the appointment of defense counsel for a parent or legal guardian in any action initiated by a private party, which potentially includes child protective orders. The committee will continue discussion of this issue at its next meeting.</p> <p>All remaining items on the agenda were held over to the next meeting. The next meeting was scheduled on Oct 3, 2014 from noon to 2:00 p.m.</p>	

the U. S. or Utah Constitutions.	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____

AGENDA TOPIC

IV. Impact of 78A-6-1111 on Appointment of Counsel and Rule 37(d)	BRENT HALL
<p>Prior to the 2014 legislative session, Section 78A-6-1111 provided that in all proceeding a parent, guardian or custodian had the right to appointed counsel if indigent. This language was stricken last year and the right to counsel was removed for respondents in private cases. Rule 37(d) which addresses counsel for child protective orders now conflicts with Section 1111(2) to the extent the petitioner is a private party. Rule 37(d) states in part "Counsel may be appointed by the court for an indigent respondent who is a parent, guardian or custodian of the child alleged to be abused or threatened with abuse." The provisions of Section 1111(1)(c) that discuss the appointment of counsel for an indigent parent or guardian also appear to omit child protective order proceedings.</p> <p>Brent Hall suggested the committee poll the juvenile bench statewide to see if the conflict and the prohibition on appointing counsel in child protective order proceedings is an issue that needs to be addressed. Brent agreed to draft an inquiry to be sent to the bench by Judge Manley.</p>	

AGENDA TOPIC

V. Scope of Discovery Issues: URJP 20A(d) and URCP 26(c)	CAROL VERDOIA
<p>Carol Verdoia reviewed the three tiers of discovery contained in the Rules of Civil Procedure and noted that child welfare discovery is generally in the non-monetary, Tier II category. The Interrogatory portion of URJP 20A(d) refers to the URCP 26 tiers and discovery limits. However, other sections of Rule 20A do not refer to the Rule 26 tier structure. After discussing the issue, the committee determined that no further change to Rule 20A is needed.</p>	

AGENDA TOPIC

VI. Old or New Business	ALL
<p>Carol Verdoia addressed issues arising out of the application of Rule 7 of the URCP to juvenile court practice and juvenile court eFiling.</p> <p>Carol Verdoia mentioned a recent issue pertaining to URCP 7(f) regarding whether the attorney preparing an order must hold it for the objection period before submitting it to the court per 7(f), or file the order and have the court staff hold the order for the objection period as is done in some juvenile courts. Katie Gregory also discussed issues which have arisen in the application of URCP 7(d) regarding whether a notice to submit must be filed with motions. In some cases, such as truancy, pro se youth file letters or motions, attendance information, and requests for extension of time to complete hours. Juvenile courts currently vary on whether the Notice to Submit for Decision requirements should be followed in these situations. The committee discussed the need to consider alternatives to applying URCP 7 in juvenile court by creating a separate juvenile rule to address these concerns. Brent Hall suggested that the committee compare how Rules 100-108 of the URCP modify civil practice in cases involving court commissioners as a starting place for a new rule.</p> <p>The committee agreed to place URCP 7 and the creation of a separate juvenile rule on the next agenda and to consider if additional parties should be present for the discussion.</p> <p>The next meeting was set for March 27, 2015 from Noon to 2:00 p.m.</p>	

separate rule regarding the service of documents after the original petition is filed and relies on URCP 5. Currently, URCP 5(b)(1)(A)(i) says that eFiling constitutes service and this will not occur with juvenile eFiling. The URJP will need its own rule of service that excludes the provisions of URCP 5(b)(1)(A)(i). The committee discussed whether the filer should be responsible to enter a "hold" date in CARE when filing an order.

If the URJP Committee elects to write a juvenile equivalent of Rule 7(f), then the committee may need to give additional consideration to the timeframes in URCP 7 and whether they work for juvenile court practice.

The committee requested that Brody Arishita return and report to the committee after additional programming decisions are finalized by the eFiling Steering Committee and the Board of Juvenile Court Judges if needed. Carol Verdoia asked the committee to continue to consider a juvenile rule that carves out practice from the rules of civil procedure and address any concerns at the next meeting.

AGENDA TOPIC

III. Proposed Rule 37B: Remote Access to Court Hearings	CAROL VERDOIA
<p>Katie Gregory distributed a copy of Rule 37B as amended at the last meeting. A question arose during the January meeting regarding the language in paragraph 37B(b) pertaining to waiving confrontation of the witness. The question was whether including this language cause attorneys to refuse to ever waive the right due to malpractice concerns and whether a right to confrontation exists in civil cases. Emily Iwasaki researched the right to confrontation issue for the committee and prepared a memorandum. She found that under both the U.S. Constitution and the Constitution of the State of Utah, a due process right to confront witnesses exists in child welfare proceedings. She could not find any cases that make a distinction between the 6th Amendment right to confrontation as discussed in <i>Crawford</i> and the right to confrontation in civil cases.</p> <p>Discussion turned to the definition of "contemporaneous transmission." Tim Shea reported that the term will be defined in the Code of Judicial Administration to include high quality digital cameras, monitors and sound systems that would enable everyone to see and hear everyone else. If counsel and client are in different locations a private means of communication would be provided between them. The public would also be able to view all parties. In its prior discussions, the committee considered telephonic transmission, which Mr. Shea clarified was not the "contemporaneous transmission" contemplated by the new rules. Telephonic transmission could continue, even without the new rule at the judge's discretion and upon stipulation of the parties. The committee determined that it will need to create a separate rule if it wishes to create a rule for telephonic testimony that is more specific than current practice.</p> <p>Brent Hall made a motion to revise Rule 37B(b) by adding a period after the word "location" in the third line and deleting the remainder of the sentence. Alan Sevison seconded the motion. After discussion, Mr. Hall considered adding "due process confrontation" between the words appropriate and safeguards in the first line of paragraph (b). Others indicated that the constitutional limitations will always control over a rule of procedure, so the additional language may not be necessary. Mr. Sevison made a friendly amendment to eliminate the "due process confrontation" addition and end the sentence with a period after the word "location." Brent Hall accepted the friendly amendment. Mr. Wake provided a second to the amendment and the motion passed unanimously.</p> <p>The committee will review Rule 29B and Rule 37B to consider the impact of the rules on telephonic transmission and continue the discussion at its next meeting. Tim Shea will update Katie Gregory on the progress of the other rules committee on their respective versions of the rule.</p>	

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

March 18, 2016

Noon to 2:00 p.m.

Education Room

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trish Cassell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Excused		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Emily Iwasaki	<input type="checkbox"/>	<input checked="" type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Tim Shea	<input type="checkbox"/>	<input checked="" type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

AGENDA TOPIC

I. Welcome & Approval of Minutes		CHAIR: CAROLVERDOIA	
Corrections to the Minutes: None			
Motion: To approve the minutes of December 4, 2015 as written	By: Judge Lindsley	Second: Maybell Romero	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

AGENDA TOPIC

II. Remote Access Rules: Rule 29B and 37B- Final Review of Comments		CAROLVERDOIA AND KATIE GREGORY	
<p>The comment period for Rule 29B and 37B closed on March 14, 2016 and no formal comments were received. Brent Hall discussed two comments he received informally from parental defense attorneys regarding the use of the phrase "good cause" and whether the rules could potentially impact due process. Katie Gregory discussed a concern expressed by child welfare mediators that the term "hearing" should be used rather than "proceeding." Committee members noted that there are proceedings in juvenile court in which telephonic attendance may be necessary such as scheduling conferences and the rule does not bind the court in either circumstance. Ultimately, the committee took no further action on the comments and asked that the rules be forwarded to the Supreme Court for final consideration.</p>			
Action Item:	Katie Gregory will schedule a time to present the final rules to the Supreme Court for consideration.		

Criminal Procedure may apply. An additional issue is the interpretation of the rule on whether the court or the prevailing party should serve orders. Judge Lindsley will take these issues to the Board and the other judges and committee members were asked to do the same with their respective offices.

Action Item:

Members to gather feedback on the applicability of civil and criminal rules in juvenile court and report at the next meeting.

AGENDA TOPIC

VI. Old or New Business

ALL

The committee had a brief discussion on whether recent legislation impacted any of the Rules of Juvenile Procedure. The committee will discuss this further if needed after bills are signed by the Governor.

The next meeting was set for June 3, 2016 from Noon to 2:00 p.m.

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

February 3, 2017

Noon to 2:00 p.m.

Conference Room A

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trish Cassell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Excused		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Adrienne Nash	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
James Ishida	<input type="checkbox"/>	<input checked="" type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

AGENDA TOPIC

I. Welcome & Approval of Minutes		CHAIR: CAROLVERDOIA	
Corrections to the Minutes: None			
Motion: To approve the minutes of January 6, 2017 as written.	By: Mikelle Ostler	Second: David Fureigh	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

AGENDA TOPIC

II. Continued Discussion of Revisions to URJP 19	JUDGE LINDSLEY
<p>Judge Lindsley explained the method she used to divide proposed Rule 19 into three separate rules designated as Rule 19, Rule 19A, and Rule 19B. Rule 19B contains the existing procedure for filing a motion for expedited hearing. Rule 19 contains the existing paragraphs (a) through (d) regarding responsive pleadings and Judge Lindsley added paragraphs (e) through (g), which were previously contained in Rule 19 as paragraphs (j) through (l). In paragraph (f), Carol Verdoia recommended changing the word "certified" to "transferred" from district to juvenile court to reflect statutory change and the use of "transferred" in Rule 100.</p> <p>Judge Lindsley sent an email to all juvenile judges and the two commissioners and received responses from every district in the state including 26 of 33 judicial officers. She asked them the following questions in light of eFiling:</p> <ol style="list-style-type: none"> 1. When do your clerks move motions to your review queue? (As soon as a motion is filed, after responses are received or upon the filing of a request to submit for decision). 2. Do you require a request to submit for decision on all motions, including patron motions? Do you see requests to submit more frequently now? When do you set them for hearing? <p>The results of this poll showed that more than half the judges have clerks move motions to the</p>	

review queue when everything is filed and the others wait for the request to submit to be filed. Some confusion occurs when a district has a blanket rule to hold pleadings until a request to submit is filed resulting in clerks holding motions that should not be held, such as stipulations and motions to suppress. Due to these concerns, some judges have asked to have all documents sent to their respective queues as soon as the documents are filed. Eighteen of the twenty-six judges who responded said the document goes into the judges' review queue as soon as it is filed.

The majority of the state uses requests to submit for decision. Third District does not use them with the exception of some private practitioners. The practice is common in Fourth District and the rural Districts. Second District Practice is mixed. Pro se parties can file a patron motion, but are often confused as to when to file a request to submit and mistakenly file the request to submit together with the motion. The judges who responded said they have the same requirements on both child welfare and delinquency. Judge Lindsley noted that the filing of the request to submit triggers the sixty-day reporting requirement for judges to report cases under advisement to their Presiding Judge and the Chair of the Board of Juvenile Court Judges.

The committee discussed differences in delinquency practice and their impact on filing requests to submit. The committee also discussed requirements of what should be included in a request to submit and whether the request should be combined with a proposed order.

Judge Lindsley will send a second email to all judges to seek additional guidance on whether they want to continue the practice of requiring requests to submit in a separate document or combining the request with a proposed order. She will then redraft Rule 19 based on their responses. She will also draft a sample order to discuss at the next meeting.

Judge Lindsley also called the committee's attention to proposed Rule 19A (i) in which she included existing language from Rule 19 regarding the requirement to hear dispositive motions at least fourteen days prior to a scheduled trial date.

Alan Sevison proposed revisions to the first sentence of Rule 19(a) to read as follows: "An answer to an abuse, neglect, and/or dependency petition, a petition to terminate parental rights, or a petition for a change of custody must be filed ten days after pretrial or twenty-five days after service of the petition whichever comes first, if the petition is not resolved at pretrial."

Alan Sevison also discussed Rule 19(e) and considerations regarding whether a request is made in writing or verbally in open court. The committee determined that section (e) is no longer needed since requests for expedited hearing are covered by proposed Rule 19B.

The committee discussed the provisions of Rule 19(f) and determined that the paragraph was not necessary because matters transferred from district court will be subject to existing provisions in the Rules of Juvenile Procedure regarding when the Rules of Civil Procedure are applied.

Pam Vickrey explained how the various procedural rules apply in delinquency cases. Generally the URJP apply in delinquency cases, except when rules of criminal procedure have been specifically adopted such as in motion practice. However, if both the URJP and the URCrP are silent, then the URCP will apply in the delinquency case. Judge Lindsley will review Ms. Vickrey's concerns regarding whether the final paragraph in Rule 19 should be revised or deleted. It reads "In delinquency, traffic and adult criminal matters, motion practice shall be governed by the Utah Rules of Criminal Procedure." Judge Lindsley will consider whether all of Rule 19 should apply in addition to the URCrP, or only the rules contained in the URCrP.

Action Item:

Judge Lindsley will email all juvenile judges to seek follow up information on requests to submit for decision and draft one or more sample orders for committee consideration. She will also consider the application of Rule 19 and the URCrP in regarding to the final paragraph of Rule 19.

Motion #1: To revise the first sentence of Rule 19(a) to read as follows: "An answer to an abuse, neglect, and/or dependency petition, a petition to terminate parental rights, or a petition for a change of custody must be filed ten days after pretrial or twenty-five days after service of the petition whichever comes first, if the petition is not resolved at pretrial."	By: Alan Sevison Second: Judge Manley
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____
Motion #2: To strike paragraph (e) in proposed Rule 19.	By: Alan Sevison Second: Maybell Romero
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____
Motion#3: To strike paragraph (f) in proposed Rule 19.	By: Alan Sevison Second: Brent Hall
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

III. Review of Supreme Court's Comments to Rule 18 and 37	CAROL VERDOIA
<p>Carol Verdoia reviewed Rule 37 and the Supreme Court's request that the new Advisory Committee Note referencing U.C.A. Section 78A-6-1111 be moved into the body of the rule. The committee concurred with the revisions.</p> <p>Carol Verdoia also reviewed the Supreme Court's revisions to Rule 18, including moving the new Advisory Committee Notes into the body of the rule. Additional discussion followed regarding the wording of paragraph (f) and subparagraphs (f)(1) and (f)(2) at lines 84 through 96. Ultimately the committee struck "with the following addition:" from lines 87-88 and added "whether or not an attorney agrees to accept service by email." The committee agreed to strike all of paragraphs (f)(1) and (f)(1)(A) and changed subparagraph (f)(2) to (g).</p> <p>The next meeting will be March 3, 2017. The committee will finish its discussion of Rule 19A. Carol Verdoia also asked Judge Lindsley to consider whether the provision in URJP 4(c) that relates to motions should be moved to the new Rule 19 motion rules.</p>	
Motion: To approve the Supreme Court's revisions to Rule 18; to strike "with the following addition:" from lines 87-88; to add the phrase ",whether or not an	By: Alan Sevison Second: Debra Jensen

attorney agrees to accept service by email." at line 87 after the word "rule"; to strike all of paragraphs (f)(1) and (f)(1)(A); and to change subparagraph (f)(2) to (g).	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor Opposed

TAB 4

1 Draft August 6, 2021

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

3 (a) Delinquency cases.

4 (a1) Unless waived by the court, a ~~pre-dispositional~~ dispositional report shall be prepared in all
5 proceedings which result in the filing of a petition. The ~~pre-dispositional~~ dispositional report
6 shall be deemed waived, unless otherwise ordered, in all traffic, fish and game and
7 boating cases, and other bailable offenses. The report shall conform to the
8 requirements in the Code of Judicial Administration.

9 ~~(b2) In delinquency cases, i~~ Investigation of the minor and family for the purpose
10 of preparing the ~~pre-dispositional~~ dispositional report shall not be commenced before the
11 allegations have been proven without the consent of the parties.

12 ~~(c3)~~ The ~~pre-dispositional~~ dispositional report shall not be submitted to or considered by the
13 judge before the adjudication of the charges or allegations to which it pertains. If
14 no ~~pre-dispositional~~ dispositional report has been prepared or completed before the
15 dispositional hearing, or if the judge wishes additional information not contained
16 in the report, the dispositional hearing may be continued for a reasonable time to
17 a date certain.

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

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

26 ~~(d1)~~ For the purpose of determining proper disposition of the minor ~~and for the~~
27 ~~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 Pursuant to Utah Code section 80-3-408, if the dispositional report is determined
36 to be an ex parte communication with a judge, the report is considered a
37 communication authorized by law.

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

3334 juvenile court finds from the evidence presented at the hearing that the parent's or guardian's
3335 mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of
3336 the minor; or

3337 (b) may appoint a physician or a physician assistant who the juvenile court finds to be
3338 qualified to:

3339 (i) physically examine the minor; or

3340 (ii) after notice and a hearing set for the specific purpose, physically examine the
3341 minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing
3342 that the parent's or guardian's physical condition may be a factor in causing the abuse, neglect,
3343 or dependency of the minor.

3344 ~~[(b)]~~ (2) The juvenile court may not refuse to appoint a mental health therapist under
3345 Subsection (1) for the reason that the therapist's recommendations in another case [have not
3346 followed] did not follow the recommendations of the [Division of Child and Family Services]
3347 division.

3348 ~~[(2) This section applies to all juvenile court proceedings involving:]~~

3349 (3) The division shall, with regard to a minor in the division's custody:

3350 (a) take reasonable measures to notify a minor's parent or guardian of any
3351 non-emergency health treatment or care scheduled for a minor;

3352 (b) include the minor's parent or guardian as fully as possible in making health care
3353 decisions for the minor;

3354 (c) defer to the minor's parent's or guardian's reasonable and informed decisions
3355 regarding the minor's health care to the extent that the minor's health and well-being are not
3356 unreasonably compromised by the parent's or guardian's decision; and

3357 (d) notify the minor's parent or guardian within five business days after the day on
3358 which the minor receives emergency health care or treatment.

3359 (4) An examination conducted in accordance with Subsection (1) is not a privileged
3360 communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general
3361 rule of privilege.

3362 (5) Subsection (1) applies to a proceeding under this chapter involving:

3363 (a) parents and minors; or

3364 (b) the ~~[Division of Child and Family Services]~~ division.

3365 Section 63. Section **80-3-110**, which is renumbered from Section 78A-6-115 is

3366 renumbered and amended to read:

3367 ~~[78A-6-115].~~ **80-3-110. Consideration of cannabis during proceedings.**

3368 ~~[(1)(a) A verbatim record of the proceedings shall be taken in all cases that might~~
3369 ~~result in deprivation of custody as defined in this chapter. In all other cases a verbatim record~~
3370 ~~shall also be made unless dispensed with by the court.]~~

3371 ~~[(b)(i) For purposes of this Subsection (1)(b):]~~

3372 ~~[(A) "Record of a proceeding" does not include documentary materials of any type~~
3373 ~~submitted to the court as part of the proceeding, including items submitted under Subsection~~
3374 ~~(4)(a).]~~

3375 ~~[(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal~~
3376 ~~guardian, the Division of Child and Family Services, and any other party to the proceeding.]~~

3377 ~~[(ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government~~
3378 ~~Records Access and Management Act, the court shall release a record of a proceeding made~~
3379 ~~under Subsection (1)(a) to any person upon a finding on the record for good cause.]~~

3380 ~~[(iii) Following a petition for a record of a proceeding made under Subsection (1)(a),~~
3381 ~~the court shall:]~~

3382 ~~[(A) provide notice to all subjects of the record that a request for release of the record~~
3383 ~~has been made; and]~~

3384 ~~[(B) allow sufficient time for the subjects of the record to respond before making a~~
3385 ~~finding on the petition.]~~

3386 ~~[(iv) A record of a proceeding may not be released under this Subsection (1)(b) if the~~
3387 ~~court's jurisdiction over the subjects of the proceeding ended more than 12 months before the~~
3388 ~~day on which the request is made.]~~

3389 ~~[(2)(a) Except as provided in Subsection (2)(b), the county attorney or, if within a~~

3390 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
3391 case.]

3392 [(b) Subject to the attorney general's prosecutorial discretion in civil enforcement
3393 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and
3394 Family Services, and this chapter, relating to:]

3395 [(i) protection or custody of an abused, neglected, or dependent child; and]

3396 [(ii) petitions for termination of parental rights.]

3397 [(3) The board may adopt special rules of procedure to govern proceedings involving
3398 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings
3399 involving offenses under Section 78A-6-606 are governed by that section regarding suspension
3400 of driving privileges.]

3401 [(4) (a) For the purposes of determining proper disposition of the minor in
3402 dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication
3403 hearings and in hearings upon petitions for termination of parental rights, written reports and
3404 other material relating to the minor's mental, physical, and social history and condition may be
3405 received in evidence and may be considered by the court along with other evidence. The court
3406 may require that the individual who wrote the report or prepared the material appear as a
3407 witness if the individual is reasonably available.]

3408 [(b) For the purpose of determining proper disposition of a minor alleged to be or
3409 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division
3410 under Section 78A-6-315 may be received in evidence and may be considered by the court
3411 along with other evidence. The court may require any individual who participated in preparing
3412 the dispositional report to appear as a witness, if the individual is reasonably available.]

3413 [(5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or
3414 dependency proceeding occurring after the commencement of a shelter hearing under Section
3415 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding
3416 shall provide in writing to the other parties or their counsel any information which the party:]

3417 [(i) plans to report to the court at the proceeding; or]

3418 ~~[(ii) could reasonably expect would be requested of the party by the court at the~~
3419 ~~proceeding.]~~

3420 ~~[(b) The disclosure required under Subsection (5)(a) shall be made:]~~

3421 ~~[(i) for dispositional hearings under Sections [78A-6-311](#) and [78A-6-312](#), no less than~~
3422 ~~five days before the day on which the proceeding is held;]~~

3423 ~~[(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in~~
3424 ~~accordance with Utah Rules of Civil Procedure, and]~~

3425 ~~[(iii) for all other proceedings, no less than five days before the day on which the~~
3426 ~~proceeding is held.]~~

3427 ~~[(c) The division is not required to provide a court report or a child and family plan to~~
3428 ~~each party to the proceeding if:]~~

3429 ~~[(i) the information is electronically filed with the court; and]~~

3430 ~~[(ii) each party to the proceeding has access to the electronically filed information.]~~

3431 ~~[(d) If a party to a proceeding obtains information after the deadline in Subsection~~
3432 ~~(5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the~~
3433 ~~party certifies to the court that the information was obtained after the deadline.]~~

3434 ~~[(e) Subsection (5)(a) does not apply to:]~~

3435 ~~[(i) pretrial hearings; and]~~

3436 ~~[(ii) the frequent, periodic review hearings held in a dependency drug court case to~~
3437 ~~assess and promote the parent's progress in substance use disorder treatment.]~~

3438 ~~[(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court~~
3439 ~~may, in the court's discretion, consider evidence of statements made by a child under eight~~
3440 ~~years of age to an individual in a trust relationship.]~~

3441 ~~[(7)]~~ (1) ~~[(a)]~~ As used in this ~~[Subsection (7)]~~ section:

3442 ~~[(i)]~~ (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

3443 ~~[(ii)]~~ (b) "Cannabis product" means the same as that term is defined in Section
3444 [26-61a-102](#).

3445 ~~[(iii)-(A)]~~ (c) (i) "Chronic" means repeated or patterned.

3446 ~~[(B)]~~ (ii) "Chronic" does not mean an isolated incident.

3447 ~~[(iv)]~~ (d) "Directions of use" means the same as that term is defined in Section

3448 26-61a-102.

3449 ~~[(v)]~~ (e) "Dosing guidelines" means the same as that term is defined in Section

3450 26-61a-102.

3451 ~~[(vi)]~~ (f) "Medical cannabis" means the same as that term is defined in Section

3452 26-61a-102.

3453 ~~[(vii)]~~ (g) "Medical cannabis cardholder" means the same as that term is defined in

3454 Section 26-61a-102.

3455 ~~[(viii)]~~ (h) "Qualified medical provider" means the same as that term is defined in

3456 Section 26-61a-102.

3457 ~~[(b)]~~ (2) In ~~[any child welfare proceeding]~~ a proceeding under this chapter, in which

3458 the juvenile court makes a finding, determination, or otherwise considers an individual's

3459 possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the

3460 juvenile court may not consider or treat the individual's possession or use any differently than

3461 the lawful possession or use of any prescribed controlled substance if:

3462 ~~[(i)]~~ (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis

3463 Production Establishments;

3464 ~~[(ii)]~~ (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or

3465 (3); or

3466 ~~[(iii)-(A)]~~ (c) (i) the individual's possession or use complies with Title 26, Chapter 61a,

3467 Utah Medical Cannabis Act; and

3468 ~~[(B)]~~ (ii) the individual reasonably complies with the directions of use and dosing

3469 guidelines determined by the individual's qualified medical provider or through a consultation

3470 described in Subsection 26-61a-502(4) or (5).

3471 ~~[(c)]~~ (3) In a ~~[child welfare proceeding]~~ proceeding under this chapter, a child's parent's

3472 or guardian's use of cannabis or a cannabis product is not abuse or neglect of [a] the child

3473 ~~[under Section 78A-6-105]~~ unless there is evidence showing that:

3474 [(i)] (a) the child is harmed because of the child's inhalation or ingestion of cannabis,
3475 or because of cannabis being introduced to the child's body in another manner; or

3476 [(ii)] (b) the child is at an unreasonable risk of harm because of chronic inhalation or
3477 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

3478 [(d)] (4) Unless there is harm or an unreasonable risk of harm to the child as described
3479 in Subsection [(7)(e)] (3), in a child welfare proceeding under this chapter, a child's parent's or
3480 guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of
3481 [a] the child if:

3482 [(i)] (a) for a medical cannabis cardholder after January 1, 2021, the parent's or
3483 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,
3484 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably
3485 deviates from the directions of use and dosing guidelines determined by the parent's or
3486 guardian's qualified medical provider or through a consultation described in Subsection
3487 26-61a-502(4) or (5); or

3488 [(ii)] (b) before January 1, 2021, the parent's or guardian's possession or use complies
3489 with Subsection 58-37-3.7(2) or (3).

3490 [(e)] (5) Subsection [(7)(e)] (3) does not prohibit a finding of abuse or neglect of a
3491 child [~~under Section 78A-6-105~~], and Subsection [(7)(d)] (3) does not prohibit a finding that a
3492 parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best
3493 interests of a child, if there is evidence showing a nexus between the parent's or guardian's use
3494 of cannabis or a cannabis product and behavior that would separately constitute abuse or
3495 neglect of the child.

3496 Section 64. Section **80-3-201**, which is renumbered from Section 78A-6-304 is
3497 renumbered and amended to read:

Part 2. Petition Alleging Abuse, Neglect, or Dependency

3498 [~~78A-6-304~~]. **80-3-201. Petition -- Who may file -- Timing -- Dismissal --**
3499 **Notice.**

3500
3501 [(1) For purposes of this section, "petition" means a petition to commence proceedings

Effective 9/1/2021

78A-6-209 Court records -- Inspection.

- (1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.
- (2) A court record shall be open to inspection by:
 - (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;
 - (b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;
 - (c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;
 - (d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;
 - (e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;
 - (f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;
 - (g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and
 - (h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

- (3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.
- (4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.
- (5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.
- (6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Amended by Chapter 261, 2021 General Session

Effective 9/1/2021

80-3-107 Disclosure of records -- Record sharing.

- (1)
 - (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:
 - (i) plans to report to the juvenile court at the proceeding; or
 - (ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.
 - (b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:
 - (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and
 - (ii) for all other proceedings, no less than five days before the day on which the proceeding is held.
 - (c) The division is not required to provide a court report or a child and family plan described in Section 62A-4a-205 to each party to the proceeding if:
 - (i) the information is electronically filed with the juvenile court; and
 - (ii) each party to the proceeding has access to the electronically filed information.
 - (d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.
 - (e) Subsection (1)(a) does not apply to:
 - (i) pretrial hearings; and
 - (ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.
- (2)
 - (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:
 - (i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and
 - (ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (2)(a)(i).
 - (b) The disclosures described in Subsection (2)(a) are not required if:
 - (i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;
 - (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;
 - (iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;
 - (iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or
 - (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.
 - (c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:
 - (i) of the existence of all records in the possession of the division or any other state or local public agency;

- (ii) of the name and address of the individual or agency that originally created the record; and
- (iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Amended by Chapter 231, 2021 General Session, (Coordination Clause)

Enacted by Chapter 261, 2021 General Session

Effective 9/1/2021

80-3-408 Periodic review hearings -- Dispositional reports.

- (1) At least every six months, the division or the juvenile court shall conduct a periodic review of the status of each minor in the custody of the division, until the juvenile court terminates the division's custody of the minor.
- (2)
 - (a) The juvenile court or the division shall conduct the review described in Subsection (1) in accordance with the requirements of the case review system described in 42 U.S.C. Section 675.
 - (b) If a review described in Subsection (1) is conducted by the division, the division shall:
 - (i) conduct the review in accordance with the administrative review requirements of 42 U.S.C. Section 675; and
 - (ii) to the extent practicable, involve volunteer citizens in the administrative review process.
- (3)
 - (a) Within 30 days after the day on which a review described in Subsection (1) that is conducted by the division is completed, the division shall:
 - (i) submit a copy of the division's dispositional report to the juvenile court to be made a part of the juvenile court's legal file; and
 - (ii) provide a copy of the dispositional report to each party in the case to which the review relates.
 - (b) The juvenile court shall receive and review each dispositional report submitted under Subsection (3)(a)(i) in the same manner as the juvenile court receives and reviews a report described in Section 80-6-307.
 - (c) If a report submitted under Subsection (3)(a)(i) is determined to be an ex parte communication with a judge, the report is considered a communication authorized by law.

Renumbered and Amended by Chapter 261, 2021 General Session

Effective 9/1/2021

80-4-107 Record of proceedings -- Written reports and other materials -- Statements of a child.

- (1) As used in this section, "record of a proceeding" means the same as that term is defined in Section 80-3-106.
- (2) A record of a proceeding under this chapter:
 - (a) shall be taken in accordance with Section 80-3-106; and
 - (b) may be requested for release as described in Section 80-3-106.
- (3)
 - (a) For purposes of determining proper disposition of a child in hearings upon a petition for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be:
 - (i) received in evidence; and
 - (ii) considered by the court along with other evidence.
 - (b) The court may require that an individual who wrote a report or prepared the material under Subsection (3)(a) to appear as a witness if the individual is reasonably available.
- (4) For the purpose of establishing abuse, neglect, or dependency under this chapter, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

Enacted by Chapter 261, 2021 General Session

TAB 5

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 (e) 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

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

Effective 9/1/2021

80-6-306 Plea -- Withdrawal of a plea.

- (1) If a minor is facing a delinquency proceeding under this chapter, the minor may enter:
 - (a) a denial of the alleged offense;
 - (b) an admission of the alleged offense; or
 - (c) with the consent of the juvenile court, a plea of no contest as described in Section 77-13-2.
- (2)
 - (a) If a minor enters an admission under Subsection (1), the juvenile court may:
 - (i) delay in entering the admission for a defined period of time; and
 - (ii) impose conditions on the minor for the period of time under Subsection (2)(a)(i).
 - (b) If the minor successfully completes the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall dismiss the petition filed under this chapter.
 - (c) If the minor fails to complete the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall:
 - (i) enter the minor's admission; and
 - (ii) proceed with ordering a disposition in accordance with Section 80-6-701.
- (3) If a minor declines to enter a plea, the juvenile court shall enter a denial.
- (4) A minor's counsel may enter a denial in the absence of the minor or the minor's parent, guardian, or custodian.
- (5) The minor may enter an admission to:
 - (a) a lesser included offense;
 - (b) an offense of a lesser degree; or
 - (c) a different offense for which the juvenile court may enter after amending the petition.
- (6) A plea under this section shall be conducted in accordance with Utah Rules of Juvenile Procedure, Rule 25.
- (7) A minor may withdraw a denial of an offense at any time before an adjudication under Section 80-6-701.
- (8) A minor may only withdraw an admission or a plea of no contest upon:
 - (a) leave of the court; and
 - (b) a showing that the admission or plea was not knowingly and voluntarily made.
- (9)
 - (a) Even if the juvenile court has ordered a disposition under Part 7, Adjudication and Disposition, a minor shall make a request to withdraw an admission, or a plea of no contest, within 30 days after the day on which the minor entered the admission or plea.
 - (b) If the juvenile court has not entered a disposition, the juvenile court may not announce a disposition until the motion to withdraw under Subsection (9)(a) is denied.

Enacted by Chapter 261, 2021 General Session

TAB 9

1 Rule 7. Warrants.

2 (a) The issuance and execution of a warrant is governed by Title 77, Chapter 7, Arrest;
3 ~~Utah Code sections Section 78A-6-106, 78A-6-102, Section 78A-6-106.5, Section 78A-6-~~
4 ~~11180-6-202, and Section 78A-6-112, 78A-6-352;~~ and Rule 40 of the Utah Rules of Criminal
5 Procedure ~~40~~.

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

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

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

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

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

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

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

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

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

26 ~~(e)~~(2) has violated a court order.

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

29 ~~(e)~~(1) an order that the minor be returned home, taken to the court, taken to a
30 juvenile detention, shelter facility, other nonsecure facility or an adult detention
31 facility, if appropriate, designated by the court at the address specified pending a
32 hearing or further order of the court;

33 ~~(e)~~(2) the name, date of birth and last known address of the minor;

34 ~~(e)~~(3) the reasons why the minor is being taken into custody;

35 ~~(e)~~(4) a time limitation on the execution of the warrant;

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

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

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

43 (f) This rule shall not limit the statutory authority of a probation officer to take a minor
44 who has violated a condition of probation into custody under Utah Code section 80-6-
45 201.

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

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

50 ~~(h)~~(1) At the time of issuance, the juvenile court shall retain and seal a copy of the
51 search warrant, the application and all affidavits or other recorded testimony on
52 which the warrant is based and shall, within a reasonable time, file those sealed

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

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

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

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

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

68

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 July 15, 2021.

TAB 6

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

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

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

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

5 (A) a judgment;

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

7 (C) a pleading after the original complaint;

8 (D) a paper relating to disclosure or discovery;

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

10 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **(3) Methods of service.**

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

41 (A) except in the juvenile court, submitting it for electronic filing, or the court
42 submitting it to the electronic filing service provider, if the person being
43 served has an electronic filing account;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 74 (2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's
75 pleadings and replies to them are deemed denied or avoided by all other parties;
- 76 (3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice
77 of them to all other parties; and
- 78 (4) a copy of the order must be served upon the parties.

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

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

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

- 93 (1) electronically file the original affidavit with a notary acknowledgment as
94 provided by Utah Code Section [46-1-16\(7\)](#);
- 95 (2) electronically file a scanned image of the affidavit or declaration;
- 96 (3) electronically file the affidavit or declaration with a conformed signature; or
- 97 (4) if the filer does not have an electronic filing account, present the original affidavit
98 or declaration to the clerk of the court, and the clerk will electronically file a scanned
99 image and return the original to the filer.

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

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

103

104 **Advisory Committee Notes**

105 *Note adopted 2015*

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

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

118

Rule 10. Form of pleadings and other papers.**1 (a) Caption; names of parties; other necessary information.**

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

9 | (2) Names of the parties.

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

17 | **(B) Domestic relations actions.** Domestic relations actions, as defined in Rule
18 | 26.1, must be captioned as follows:

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

21 (ii) In petitions to establish parentage: “In the matter of the parentage of
22 [Child(ren)’s Initials], a child.”

23 (iii) In petitions to otherwise establish custody and parent-time: “In the
24 matter of [Child(ren)’s Initials], a child.”

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

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

34 **(b) Paragraphs; separate statements.** All statements of claim or defense must be made
35 in numbered paragraphs. Each paragraph must be limited as far as practicable to a
36 single set of circumstances; and a paragraph may be adopted by reference in all
37 succeeding pleadings. Each claim founded upon a separate transaction or occurrence
38 and each defense other than denials must be stated in a separate count or defense
39 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.

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

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.