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: November 5, 2021

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of October 1, 2021 Meeting minutes	Tab 1	David Fureigh
Discussion: Rule 60: Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion • Further discussion regarding amending timeframes in paragraph (d) and statewide practice. • *Attached 2018 and current version of Rule 4: Time to inform discussion.*	Tab 2	Judge Paul Dame
Action: Rule 44: Findings and conclusion • *Public comment period closed; No comments received*	Tab 3	David Fureigh
Discussion & Action: Rule 8: Rights of minors while in detention (SC sent back to Committee) • *Attached memo regarding history of the Advisory Committee Note to Rule 8.*	Tab 4	David Fureigh
Discussion: Rule 25: Pleas and Rule 25A: Withdrawal of Plea *Discuss any changes needed since language will be incorporated in to Juvenile Code due to H.B. 285 Juvenile Recodification.*	Tab 5	Bridget Koza
Discussion: Rule 7: Warrants • *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*	Tab 6	David Fureigh

terminated, court jurisdiction is terminated, or a new E-warrant is needed for a different return location.		
Discussion: Changes to Civil Rules 5, 7A, 7B, and 10 • 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)* *Discuss impact to Juvenile Rules as well as if specific Civil Rules should be applicable in juvenile court as to change Juvenile Rule 2.*	Tab 7	Bridget Koza
Discussion: Old business or new business		All

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

Meeting Schedule:
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: October 1, 2021

Time: 12:00 pm – 2:00 pm

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

1. **Welcome and approval of the September 3, 2021 Meeting minutes:** (David Fureigh)

David welcomed everyone to the meeting. The Committee then proceeded with introductions for new member, William "Bill" Russell, and committee members made

professional practice disclosures as required by Rule 11-101 of the Supreme Court Rules of Professional Practice. David asked for approval of the minutes.

Judge Dame questioned the discussion on page 5 of the minutes. Judge Dame did not recall discussing the timeframes in Rule 60. Other committee members recalled this discussion, and Judge Dame withdrew his question. Sophia Moore motioned to approve the September 3, 2021 meeting minutes. Janette White seconded the motion with the amendment and it passed unanimously.

2. **Action: Rule 17**: The Petition

Bridget Koza reviewed with the committee language that was previously in Juvenile Rule 17(c)(2) that was removed. The first sentence in (c)(2) states "[p]etitions for adjudication expungements must meet all of the criteria of Utah Code section 80-6-1004 and petitioner," and it should state "[p]etitions for adjudication expungements must meet all of the criteria of Utah Code section 80-6-1004 and shall state: the name, age , and residence of the petitioner." The underlined language was previously there before the committee updated the Rule this year.

Judge Dame motioned to present the revised Rule 17 (Draft October 1, 2021) with the addition of the added language in paragraph (c)(2) to the Supreme Court for final publication. Sophia Moore seconded the motion and it passed unanimously.

3. **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 Fureigh reviewed with the Committee Rules 8, 27A, and 55 that were sent back to the Committee from the Supreme Court. The committee first reviewed Rule 8. The language from the Juvenile Code was stricken and paragraphs (a) and (c) remained. Bridget Koza proposed amending paragraph (a) to read "[i]mmediately after being admitted to a detention facility, a minor shall be advised of their rights listed in Utah Code section 80-6-205." Bridget noted that the Juvenile Code may be amended to

include language about advising a minor of their rights in detention. The committee discussed the need to keep paragraph (a) until the statute was revised, at which point, they could revisit the rule. David likewise commented that it may be appropriate to keep the rule with the references to the statute, because law enforcement relies on the rule. Judge Dame also noted that paragraph (c) should be changed to paragraph (b), and this change was made.

The committee proceeded to discuss the advisory committee note to Rule 8. The committee discussed the purpose of the advisory committee note and whether it should be deleted. David noted that if the advisory committee note is deleted it may be difficult to reintroduce. Carol Verdoia agreed to reach out to JJS regarding reference to Utah Administrative Rule R547-13-1 in the advisory committee note, whether reference to this rule is necessary, and whether there are any future plans to change this rule before the committee decided to delete the advisory committee note.

The committee agreed to continuing discussion Rule 8 and have it be placed on the November 5, 2021 meeting agenda.

The committee then discussed Rule 27A. The language from the Juvenile Code was stricken and paragraph (a) and paragraph (d), revised to paragraph (b), remained. David raised an issue with paragraph (b), which was amended to read "[t]he state shall retain the burden of proving that the waiver of the child's constitutional rights was knowing, voluntary, and satisfied the requirements outlined in Utah Code section 80-6-206." David questioned whether there is any basis in case law for placing the burden on the state to prove that the waiver of the child's constitutional rights is knowing and voluntary. Bill noted that this is based in Fifth Amendment case law. David and other committee members noted, however, that 80-6-206 does not indicate that the state bears the burden to prove the requirements in 80-6-206. Carol commented that the origin of this suggested change was based on public policy considerations. David questioned whether the rule was needed, but the committee agreed to keep the rule, since this burden is not addressed in the statute. Judge Dame also commented that "the" should

be changed to "the" before "waiver." The committee agreed and made the recommended change.

The committee then discussed whether they should keep 8(a), which was amended to read "[t]he interrogation of a child for an offense is governed by Utah Code section 80-6-206." Bill commented that the rule seemed redundant. Chris Yanelli commented that with the addition of "custodial" in front of "interrogation" the rule could be helpful in clarifying that Utah Code section 80-6-206 only applies to custodial interrogations. The committee agreed and made the recommended change. Sophia Moore also made the suggestions that it might be helpful to state the burden—to add "by a preponderance of the evidence" after "proving." The committee agreed and made the recommended change.

Judge Dame also questioned why the rule changed "minor" to "child," and it was noted that this is the language used in the statute. Sophia then commented that the title should be changed "Admissibility of statements given by a child." The committee agreed and made the recommended change.

Judge Dame motioned to present the revised Rule 27A (Draft October 1, 2021) with changes to the Supreme Court for approval to be sent out for an initial 45-day comment period. Bill Russell seconded the motion and it passed unanimously.

The committee lastly discussed Rule 55. Bridget noted that the rule had been changed to reference the statute. Judge Dame asked whether the rule should be deleted, since it only references the statute. David noted that it would be the preference of the Supreme Court for the rule to be deleted.

Judge Dame motioned to delete Rule 55 and send it to the Supreme Court for approval to be sent out for an initial 45-day comment period. Janette White seconded the motion and it passed unanimously.

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

Bridget Koza reviewed with the committee that Rule 37 was sent out for comment and no comments were received. Bridget also reviewed that the committee started having a discussion on paragraph (d) regarding the right to counsel in private petitions. Bridget noted that past meeting minutes indicated that the Supreme Court wanted paragraph (d) to be in the rule rather than as an advisory note.

Judge Dame first suggested that it would be more accurate to reference Title 78B "Part 1 and Part 2" rather than "et seq." in Rule 37(a). The committee agreed and the language was changed to "Utah Code Title 78B, Chapter 7, Part 1, General Provisions and Part 2, Child Protective Orders."

The committee then continued its discussion on paragraph (d). Sophia Moore suggested getting rid of paragraph (d), because it is confusing. Judge Dame agreed and noted that there is no right to counsel in private petitions. Carol Verdoia indicated that in past discussions regarding the rule the Bench wanted to leave it within a judge's discretion to appoint counsel in private petitions. Judge Jensen suggested polling the judges. Janette White suggested submitting the rule for comment, which would allow judges to comment on the rule. The committee agreed to submit the rule for comment.

Judge Dame motioned to approve the amendments to Rule 37 and present the revised Rule 37 (Draft October 1, 2021) with changes to the Supreme Court for approval to be sent out for additional 45-day comment period. Judge Jensen seconded the motion and it passed it unanimously.

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

Sophia Moore discussed with the committee proposed amendments to Rule 45. Judge Dame asked whether "adjudication" needed to be added after "petition" in Rule 45(a)(1). Bridget clarified that probation usually starts preparing disposition reports when the petition is filed.

The committee then had a lengthy discussion on pre-adjudication reports and the ability of the court to view dispositional reports prior to adjudication. The committee noted that pre-adjudication reports should not be a practice and that judges should not be able to view disposition reports prior to adjudication. Janette White proposed changing the language from "the dispositional report shall not be submitted to or consider by the judge" to "the dispositional report should not be viewed or considered by the judge" under Rule 45(a)(3) – that way the report could be uploaded to CARE but not viewed by the judge. The committee agreed and this recommended change was made. Mikelle Ostler also commented that is may be an issue of JA training—that JAs need to be trained not to upload dispositional reports to judicial workspaces.

The committee then discussed Rule 45(b), dispositional reports in abuse, neglect, and dependency cases. David Fureigh commented that 45(b)(1) only addresses the disposition of the minor rather than the family. The committee discussed how the rule should not limit reports to a minor but should include family progress. The committee had a lengthy discussion on what could replace the term "minor." There was a suggestion to change "minor" to "family," but the committee agreed this would not encompass custodians or some guardians. Other members noted that the rule reads the way it does, because it is about the status of the minor, not the parents. The committee ultimately agreed to change minor, at line 26, to "case" and to leave "minor," at line 28, for a later discussion. The committee agreed to send the rule out for comment with the recodification changes and address this issue later. Sophia made the additional recommendation to remove "dispositional" and refer to them as reports, but Bridget Koza noted that the statute refers to them as dispositional reports.

The committee also discussed why there was a reference to 80-6-307, dispositional reports in delinquency case, in the section on abuse, neglect, and dependency. The committee discussed how 80-3-408 references 80-6-307—that reports have to be submitted in the same manner. Janette White suggested including a reference to 80-3-405, the citation to dispositional hearings, in paragraph (b)(2). Bridget noted, however,

that 80-3-405 does not refer to reports. The committee then discussed how the second sentence in paragraph (b)(2) is repetitive of the language in the statute, and the committee decided to delete the sentence beginning "[p]ursuant to Utah Code section 80-3-408. . ."

Judge Dame motioned to approve the amendments to Rule 45 and present the revised Rule 45 (Draft October 1, 2021) with changes to the Supreme Court for approval to be sent out for an initial 45-day comment period. Sophia Moore seconded the motion and it passed it unanimously.

6. **Discussion:** Rule 60: Judicial bypass procedure to authorize minor to consent to an abortion**:** (Judge Paul Dame)

Judge Dame prefaced the discussion regarding amending timeframes in paragraph (d) and statewide practice. Judge Dame noted that the amendment to Rule 60 was an attempt to fix an inadvertent result and restore the rule to its 2007-18 version.

The committee agreed that the agenda item will be placed as the first item on the November 5, 2021 meeting.

7. **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 November 5, 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 November 5, 2021 meeting.

9. **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 November 5, 2021 meeting.

The meeting adjourned at 2:10 pm. The next meeting will be held on November 5, 2021, at 12 pm via Webex.

TAB 2

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

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

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

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

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

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

Appeals. The court shall provide a copy of the order to individuals designated by the petitioner.

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

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

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

Effective September 27, 2021

West's Utah Code Annotated
State Court Rules
Rules of Juvenile Procedure (Refs & Annos)
Section I. General Provisions

Utah R. Juv. P. Rule 4

Rule 4. Time

Currentness

(a) The following rules apply in computing any time period specified in these rules, any local rule or court order, or in any statute that does not specify a method of computing time.

(b) In computing time under these rules:

(1) The day of the act, event or default from which the designated period of time begins to run shall not be included.

(2) Count every day, including intermediate Saturdays, Sundays, and legal holidays.

(3) The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(4) Unless the court orders otherwise, if the clerk's office is inaccessible on the last day for filing under Rule 4(b), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday.

(c) The court may, with or without motion or notice, for cause shown, order the time period enlarged if request is made before the period has expired. The court may consider a motion to grant an enlargement of a time period made after the period has expired, and may grant the motion, if there is a reasonable excuse for failure to act within the period.

(d) Unless a different time is set by a statute or court order, filing on the last day means:

(1) For electronic filing, before midnight; and

(2) For filing by other means, before the clerk's office is scheduled to close.

(e) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed time period after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days shall be added to the prescribed period as calculated under subsection (b).

Credits

[Adopted effective January 1, 1995. Amended effective April 1, 2000; November 1, 2001; November 1, 2018.]

Utah Rules of Juvenile Procedure Rule 4, UT R JUV Rule 4
Current with amendments received through September 1, 2021

End of Document

Rule 4. Time.

(a) In computing time under these rules, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When a period of time allowed is less than 11 days, without reference to any additional time under subsection (d), intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation.

(b) The court may, with or without motion or notice, for cause shown, order the time period enlarged if request is made before the period has expired. The court may consider a motion to grant an enlargement of a time period made after the period has expired, and may grant the motion, if there is a reasonable excuse for failure to act within the period.

(c) A written motion, other than one which may be heard ex parte, and notice of the hearing shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by court order. An order fixing the period of time may for cause shown be made on an ex parte application. When the motion is supported by an affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not later than one day before the hearing unless otherwise ordered by the court.

(d) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed time period after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days shall be added to the prescribed period as calculated under subsection (a). Saturdays, Sundays, and legal holidays shall be included in the computation of any three-day period under this subsection, except that if the last day of the three-day period is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

(Amended effective April 1, 2000; November 1, 2001.)

AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC.
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August 12, 2021

Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure
David W. Fureigh, Chair

Bridget Koza, Staff, CIP Director,
Administrative Office of the Courts
bridgetk@utcourts.gov
via email

Re: Proposed Amendment to URJP060, Judicial bypass procedure to authorize minor to consent to an abortion.

Dear Chair Fureigh and Esteemed Committee:

We write on behalf of the American Civil Liberties Union (ACLU) of Utah to respectfully oppose the proposed changes to Utah Rule of Juvenile Procedure 60. Based on our years of experience assisting young individuals in these types of proceedings, we believe that any benefits obtained by extending the regulatory period by which a court must schedule a hearing are significantly outweighed by the impact of any delays. In particular, the change from calendar days to business days will lengthen the multi-day process young people must undergo to access what can be extremely time-sensitive care.

The ACLU of Utah operates the Judicial Bypass Project which connects young individuals seeking to file a Judicial Bypass Petition with *pro bono* counsel to represent them in these proceedings and help them navigate the judicial process. Over the past several years, the ACLU of Utah has gained extensive experience with the practical realities of the judicial bypass process in Utah. Working with young people navigating this system has given us unique insight into the complex barriers that they may face throughout this process. It is based on these years of practical experience that we write to express our opposition to the proposed rule change.

The judicial bypass process is a confidential process which allows a young individual to petition a court to bypass parental consent in order to obtain an abortion. The grant of a judicial bypass petition does not require the young individual to undergo an abortion nor fully exclude parental involvement from this procedure. Rather, in circumstances where the young individual's parent(s) may not consent to the procedure, the young individual may petition the court to receive the procedure if they are able to establish that they are (1) mature enough to understand what they are consenting to or (2) obtaining an abortion may be in their best interest. As noted, the grant of this petition does not require that the young individual receive an abortion but permits them to make this decision even if unable to obtain parental consent.

As the Supreme Court of the United States has noted, judicial bypass hearings and any appeals process must be completed with "sufficient expedition to provide an effective opportunity for an abortion to be obtained."[1] The statutorily required process that young individuals must undergo in order to receive an abortion is already a lengthy one that can span weeks. An individual seeking an abortion is required to receive certain state-mandated information at least 72 hours before an abortion. Often, a young individual will complete the informed consent module prior to the filing of the judicial bypass petition. A court may take up to three days to schedule a judicial bypass hearing and rule on the petition. If denied, a young individual may appeal this ruling in the juvenile court. Upon the filing of an appeal, a party wishing to file a brief must do so within two days after the notice of appeal is filed. If ordered, the court must hold oral argument within three judicial days after the notice of appeal is filed, or in the alternative, issue its decision within three judicial days after the date the notice of appeal is filed. In cases where a young individual must appeal the denial, this entire process can take multiple weeks. The elongation of this period would frustrate the Supreme Court's directive in *Bellotti* to ensure that this process be an expeditious one.

Moreover, the delays already required by law are compounded by the unique difficulties that adolescents face while making this decision. A delay of a couple of calendar days may translate to much longer, depending on the availability of appointments at the clinic, a young individual's ability to arrange transportation to their appointments, ability to miss school and/or work, and much more. In many of these cases, every day that passes matters.

For these reasons, we strongly urge you to reject the proposed amendments to Rule 60 which would extend the period by which a court must schedule a judicial bypass petition. In our years representing and coordinating *pro bono* representation for such petitions, we have realized that for the individuals subject to these petitions every day matters. While the insertion of "business" days may seem trivial, any benefits from the prolonged period are outweighed by the burden that these delays may have on the lives of these young individuals already in a precarious situation.

Sincerely,
John Mejia, *Legal Director*
Valentina De Fex, *Staff Attorney*

[1] *Bellotti v. Baird*, 443 U.S. 622, 644 (1979); *see also Ind. Planned Parenthood Affiliates Ass'n, Inc. v. Pearson*, 716 F.2d 1127 (7th Cir. 1983); *Manning v. Hunt*, 119 F.3d 254 (4th Cir. 1997); *Planned Parenthood of Greater Iowa, Inc. v. Miller*, No. Civ. 4-96-cv-10877, 1997 WL 33757491 (S.D. Iowa Oct. 17, 1997); *Margaret S. v. Edwards*, 488 F. Supp. 181 (E.D. La. 1980).

Planned Parenthood
Care. No matter what.
Planned Parenthood Association of Utah

August 12, 2021

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

Re: Public Comments re: Proposed Amendments to URJP 60

Dear Juvenile Rules Committee:

We write on behalf of Planned Parenthood Association of Utah in opposition to the proposed amendment to Utah Rule of Juvenile Procedure ("URJP") 60(d), which was posted on June 28, 2021. This amendment would extend the time allowed for—and therefore the delay to patients created by—a hearing and resolution of a judicial bypass petition. The proposed amendment would place additional, unnecessary delay and attendant burdens on already-vulnerable young people seeking abortion, which is a time-sensitive procedure.

In *Bellotti v. Baird*, 443 U.S. 622 (1979) (plurality opinion) ("*Bellotti II*") the United States Supreme Court set out basic constitutional requirements governing the judicial bypass procedure for young people who elect to have an abortion without parental consent. Specifically, the Court has required that young people have access to an expeditious, confidential judicial procedure through which to obtain a waiver from the parental consent requirement. 443 U.S. at 643-44; *accord, e.g.*, *Lambert v. Wicklund*, 520 U.S. 292, 295 (1997) (reaffirming requirements for judicial bypass articulated in *Bellotti II*).

Presently, URJP 60(d) provides that, upon submission of a judicial bypass petition, a court must schedule a hearing and resolve the petition "within three days." The proposed amendment would extend this timeline by specifying that the court has three *business* days to resolve a case. The impact of this change would be significant for already-vulnerable Utahns in need of abortion. That additional delay creates risks to minor patients' health and well-being and runs counter to the goals set out in *Bellotti*. We respectfully request that this committee reject the proposed change.

I. Minors Seeking Judicial Bypass are in Vulnerable and Sometimes Dangerous Situations.

Young people seek judicial bypass for a multitude of reasons, but most do so at least in part because they are in vulnerable or unsafe situations. Research shows that the majority of young people facing an unplanned pregnancy do involve their parents in their decision about whether to have an abortion or continue a pregnancy.[1] Unfortunately, as the Supreme Court has acknowledged, "it would not be in the best interests of some 'immature' minors—those incapable of giving informed consent—even to inform their parents of their intended abortions." *Bellotti II*, 443 U.S. at 631-32. Thus, the court directed that minors seeking abortion have access to a judicial process that would could be completed with "anonymity and sufficient expedition to provide an effective opportunity for an abortion to be obtained." *Id*. at 644.

For the minor patients we serve, the availability of an anonymous and expeditious judicial bypass procedure is critical to ensuring their safety and well-being. Many of our patients report not wanting to talk to their parents because they fear that they will be subject to some form of abuse. Some have already experienced abuse at the hands of a family member prior to visiting our clinic. Public health research has shown that almost half of pregnant young people who chose not to involve their parents faced negative consequences when a parent found out about the young person's pregnancy.[2] Among these consequences are physical or emotional abuse, sexual violence, and/or being thrown out of their homes.[3]

For these vulnerable young people, each day presents another possibility of their abusers finding out about their pregnancy or their decision to seek an abortion. By elongating the time allowed for a court to issue a resolution to a judicial bypass petition, the proposed amendment would increase the risk facing our patients and run counter to the standard laid out in *Bellotti II*.

II. Minors Seeking Judicial Bypass Already Experience Significant Delays Compared to Young People Able to Obtain Parental Consent.

Abortion is a time-sensitive procedure and young Utahns seeking abortion already face numerous time-intensive hurdles in accessing care, in addition to the judicial bypass process. Many minor patients are not immediately aware that they are pregnant. When a young person does discover her pregnancy, it may take her weeks to make necessary arrangements to receive medical care, especially if she does not have support from her parents. Given the steps young people seeking abortion must juggle—including making arrangements to miss school or work, finding transportation, collecting sufficient funds to cover the cost of a procedure, and providing an explanation to their parent or guardian—many young people are already well into their first trimester by the time they begin the judicial bypass process.

The bypass process then further extends the time it takes for a minor patient to access care. One study conducted in Massachusetts, for instance, found young people who went through the judicial bypass process were delayed in accessing care an average of 6 days longer than those patients able to obtain parental consent. Further, 19% of the judicial bypass cohort surveyed was delayed 21 days or more, compared to only 7% of the parental consent group.[4]

It is likely that, as currently constituted, Utah's judicial bypass process *already* imposes a time-consuming step that young people must overcome before getting the care they need. By amending URJP 60 such that weekends and holidays would not be counted as part of the judicial review time for a bypass petition, the Supreme Court would be extending that delay by two to three days, at minimum.[5] And, if a minor's petition is denied, and she must seek an appeal, she will be delayed even further.

Even moderate delays can have a serious and burdensome impact on the patient's ability to access the abortion care she needs. Extensive research has shown that mandated delays in patient care have compounding effects that push the patient's appointment even further back on the calendar. A study that examined the impact of Utah's 72-hour waiting period requirement found that most patients experienced much more delay than 72 hours. In fact, on average, the patients studied waited "about eight days between the information visit and the abortion."[6] This extra delay was caused by, among other things, appointment availability, the time it takes to make financial arrangements, and the logistics of patients' lives. Thus, even the two-to-three-day

extension created by this amendment would likely elongate the time it takes for a young Utahn to access abortion care by multiple additional days—potentially by more than a week.

III. Delays Like Those Created by the Proposed Amendment Place Additional Burdens on Minor Patients.

The proposed amendment will force vulnerable young people seeking abortion through a judicial bypass to wait at least two days longer—and likely much more than this—for a hearing and the resolution of a petition. Delays in access to abortion care have reverberating impacts on patient's lives. For some patients, a delay of only a few days could prevent them from obtaining a medication abortion rather than a surgical abortion or, in certain circumstances, from being able to obtain an abortion at all.

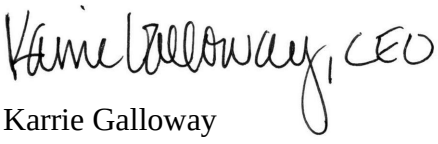
Even patients who are still able to access care following an extended delay may face increased barriers to care. For instance, the cost of an abortion increases as gestational age increases, meaning that each passing week can push a procedure further out of reach for young people without access to sufficient funds. And, as discussed above, these extended delays can put young people in danger. With each passing day that a minor patient is forced to wait there is a heightened risk that she will be discovered by her parents, partner, or other community members.

For our patients, every day matters. That is particularly true for young people who are already the most vulnerable in our communities—those that are unhoused, living in poverty, and experiencing inter-partner violence or domestic abuse. The proposed amendment would erect greater barriers to care, and impose additional, unjustified burdens on young people in Utah.

IV. CONCLUSION

The proposed amendment will create unnecessary, multiple-day delays in the judicial bypass process and will threaten the health and well-being of young people in Utah. For minor patients seeking abortion care, time is of the utmost essence; it can be the difference between a young person receiving the care they need and having to carry a pregnancy they may not want or be prepared for. The Utah Supreme Court should reject this proposed change to URJP 60 because it will impose additional burdens on minor patients, put their safety at risk, and make it more difficult for young people to exercise their autonomy and vindicate their constitutional rights. It is critical that minor patients are able to have their petitions resolved in the most secure and expedient manner possible. This change does not serve that goal, and it would not provide necessary support to young Utahns. We respectfully request that you reject the proposed

Sincerely,



Karrie Galloway
President and CEO

TAB 3

Rule 44. Findings and conclusions.

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

(b) In proceedings under Utah Code sections ~~78A-6-703.3~~ 80-6-402, 80-6-503, and ~~703.5~~ 80-6-504, and in abuse, neglect, dependency, ~~and permanent deprivation~~ termination of parental rights, and contested adoption cases, the court shall enter findings of fact and conclusions of law with specific reference to each statutory requirement considered, setting forth the complete basis for its determination. Such findings and conclusions may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to the court's acceptance and signing of the documents submitted by counsel.

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

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

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

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

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.

Posted: August 23, 2021

Utah Courts

Rules of Juvenile Procedure – Comment Period Closed October 7, 2021

URJP044. Findings and Conclusions. Amend. Clarifies which case proceedings the court shall enter findings of fact and conclusions of law as well as updates the outdated term "permanent deprivation" to "termination of parental rights." Updates statutory references affected by H.B. 285 Juvenile Code Recodification (2021).

This entry was posted in **-Rules of Juvenile Procedure**, **URJP044**.

« Rules of Juvenile Procedure – Comment Period Closes November 11, 2021

Rules of Professional Practice – Comment Period Closed October 7, 2021 »

UTAH COURTS

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
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- ADR101
- ADR103
- Appendix B
- Appendix F
- CJA Appendix F
- CJA01-0201
- CJA01-0204
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TAB 4

Draft October 1, 2021

Rule 8. Rights of minor while in detention.

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

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

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

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

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

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

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

~~(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a child 14 years of age or older in a detention facility regarding an offense chargeable against the child without the consent of the child and~~

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

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

ADVISORY COMMITTEE NOTES

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

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

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

October 26, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

M E M O R A N D U M

TO: The Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

FROM: Bridget M. Koza, Staff to the Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

RE: History on the Advisory Committee Note to Rule 8 of Utah Rules of Juvenile Procedure

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Prior to 1995, the rules for juvenile court were known as the Utah Juvenile Court Rules of Practice and Procedure. The Board of Juvenile Court Judges was given rule making authority through statute to establish rules and policies for the juvenile court. Utah Code § 55-10-71(b) (1965) ("The board shall establish general policies for the operation of the juvenile courts and shall formulate uniform rules and forms governing practice and procedure . . ."). During the 1984 Second Special Legislative Session, a joint resolution of the legislature was passed that amended the Utah Constitution and gave the Utah Supreme Court the authority to "adopt rules of procedure and evidence to be used in the courts of the state . . ." S. J. Res. 1, 45th Leg., 2nd Spec. Sess. (Utah 1984). Exercising their constitutional power, the Utah Supreme Court established the Advisory Committee on the Rules of Juvenile Procedure, and, effective January 1, 1995, the Utah Rules of Juvenile Procedure were adopted and the existing Utah Juvenile Court

Rules of Practice and Procedure were simultaneously repealed. Utah R. Juv. P. Rule 1- Repeals and Reenactments (1995).

When the Board of Juvenile Court Judges had rule making authority, Rule 10 of Juvenile Court Rules of Practice and Procedure explained a minor's right while in detention. *See Attachment A.* In January 1995, Rule 10 of Juvenile Court Rules of Practice and Procedure was moved to Rule 8 of the Rules of Juvenile Procedure and retitled "Rights of a minor while in detention." The Advisory Committee Note to Rule 8 was also adoped in January 1995. *See Attachment B.* The Advisory Committee Note has not changed since its adoption other than changing "Division of Youth Corrections" to "Division of Juvenile Justice Services" in November 2005. *See Attachment C.*

In June 2018, the Supreme Court of Utah requested each advisory committee review their Advisory Committee Notes to determine the following:

- Are the advisory notes accurate based on exisiting case law? Should an advisory note be eliminated or revised based on case law or other reasons?
- Does the advisory note explain the intent of the rule? If so, can the language of the rule be clarified so that a note regarding intent is not necessary?
- Does the advisory note provide historical context for the rule or an example that explains the application of the rule? If not, what is the purpose of the advisory note?

In November 2018, the Committee reviewed the Advisory Committee Note to Juvenile Rule 8. The Committee agreed that the Advisory Committee note is necessary to explain the rights protected by the Rule. Sup. Ct. Advisory Comm. R. Juv. P., *Minutes*, November 2, 2018 (1); *see Attachment D.*

Attachment A

UTAH CODE
ANNOTATED

1953

UTAH COURT RULES
1994

State and Federal Rules and Code of Judicial Administration

THE MICHIE COMPANY
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Charlottesville, Virginia

Call Back Motions and Hearings

The Juvenile Court regains jurisdiction when:

(1) the magistrate of the circuit court determines there is insufficient probable cause for the juvenile to stand trial on the allegations;

(2) there is an acquittal or finding of not guilty or dismissal of the charge;

(3) the juvenile court judge files a request for return of jurisdiction in the court where allegations are pending.

The request for return must be filed within 10 calendar days from the date the juvenile court was given a copy of the information or filing in the adult court (as required in UCA § 78-3a-25(6)). Upon receipt of the request (by the adult court) jurisdiction vests with the juvenile court.

A child or his/her guardian may move for a recall of jurisdiction to the juvenile court by filing a motion and asking for a hearing before a juvenile court judge. The motion must be filed and a hearing held within 10 calendar days from the date a copy of the information is filed in juvenile court.

In determining whether or not to request a return of jurisdiction the juvenile court judge shall consider the child's age, legal record and the seriousness of the charge. When the juvenile court regains jurisdiction, the child shall be returned to the juvenile court for further proceedings which may include certification.

(Revised March 1985.)

Statutory References. — Section 78-3a-25, Utah Code Annotated 1953, as amended.

SECTION III. DETENTION AND/OR SHELTER CARE.

Rule 8. Admission to detention or shelter care.

A law-enforcement officer or any other person who brings a child to a detention or shelter care facility shall give the officer in charge of the facility a signed report setting forth the reasons why the child was not released to his parents, guardian or custodian and why the child should be detained or placed in shelter care.

A copy of the report, noting the time when the child was brought to the facility and stating the facts that appear to bring the child within the jurisdiction of the court, shall be promptly filed with a duly authorized officer of the court. Such officer shall immediately investigate the matter and shall order the release of such child to the care of a parent, guardian or custodian unless he finds or has reasonable cause to believe that it is not safe to release the child, which may include but shall not be limited to the following conditions or reasons:

(1) The child may abscond or be taken from the jurisdiction of the court before preliminary inquiry and hearing, if ordered, unless detained.

(2) The juvenile's home condition and/or environment constitutes a danger to the juvenile requiring protective custody (failure to care, lack of care, or abuse).

(3) Parent or guardian cannot be located.

(4) Parent or guardian refuses to accept custody of the child.

(5) Parent or guardian will not produce the child before the court at an appointed time.

(6) Witness intimidation.

(7) The juvenile's past record constitutes a threat to the public safety or the child has problems of conduct or behavior so serious or his family relationships are so strained he is likely to be involved in further delinquency in the near future.

(8) The juvenile has failed to appear for a court hearing within the past twelve months.

(9) The ser

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If not so released, an order in writing signed by an authorized officer of the court shall be given to the person in charge of the detention or shelter facility. No child shall be held in detention or shelter longer than 48 hours, excluding Sundays and holidays, unless an order for continued detention or shelter care has been made by the court.

As specified by the Juvenile Court Act of 1965, provisions of law regarding bail shall not be applicable to children detained or taken into custody, except that bail may be allowed when a child who need not be detained lives outside this state. A child who is not released to his home but who does not require physical restriction shall be given temporary care in a shelter facility and shall not be placed in detention.

(Revised March 1985.)

Statutory References. — Sections 78-3a-29 and 78-3a-30, Utah Code Annotated 1953, as amended.

Rule 9. Notice of admission to detention or shelter care.

The official in charge of detention or shelter care program shall notify any child admitted to shelter care or detention and the parents, guardian or custodian of such child, if they can be found, of the reasons for the action and request them to come to a place designated in said notice. He shall inform them that a hearing will be held by the court concerning the necessity for shelter care or detention or he shall inform them that upon their request such a hearing will be scheduled before a judge or an officer of the court authorized by the judge to conduct such hearings.

A written record of the names of persons notified under this rule and the manner and time of notification or reason for failure to notify shall be made and furnished to the court.

(Revised July 1, 1976.)

Statutory References. — Section 78-3a-30, Utah Code Annotated 1953, as amended.

Rule 10. Telephoning/visitation.

A child may telephone his parents, guardian or custodian and his attorney immediately after being admitted to a shelter or detention facility.

Upon being admitted to a shelter or detention facility, a child may be visited in private at any time by his attorney, clergyman, and by his parents unless he refuses to see one or any of them. After the initial visit, the child may be visited by them at reasonably established visiting hours or at other times when special circumstances so warrant.

No person other than a probation officer or a staff member of a shelter or detention facility shall be permitted to interview a juvenile under 14 years of age held in the facility without the child's parents or legal guardian being present, unless:

(1) They have given written permission for the interview to be held outside their presence, and;

(2) The parents had been advised of the juvenile's constitutional rights as contained in Rule 32 and intelligently waived such rights, and;

(3) The juvenile had been advised of his constitutional rights as contained in Rule 32 and intelligently waived such rights.

No person other than a probation officer or a staff member of a shelter or detention facility shall be permitted to interview a juvenile 14 years of age or older in a detention facility without the consent of the juvenile and his parent or legal guardian after first advising said juvenile of his constitutional rights as described in Rule 32 and such rights having been intelligently waived by him.

Where the parent is not available, the consent of the court shall be obtained before interviewing a child in a detention facility.
(Revised July 1976.)

Statutory References. — None.

Rule 11. Notice of detention hearing.

When the court receives the report by the shelter or detention facility on a child who has been detained, it shall immediately schedule a detention hearing where it is practical. This hearing should be held within 48 hours of the time of admission of the child to the shelter or detention facility, excluding Sundays and holidays.

When a child is placed in a detention or shelter facility, the person in charge of the facility shall immediately notify his parents, guardian or custodian and shall also promptly give notice to the court that the child is being held at the facility.

After immediate investigation by a duly authorized officer of the court, the judge or such officer shall order the release of the child to his parents, guardian or custodian if it is found that he can be safely left in their care, either upon written promise to bring the child to the court at a time set, or without restriction. If it is found that it is not safe to release the child, the judge or authorized officer may order that the child be held in the facility or be placed in another appropriate facility, subject to further order of the court.

When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility, that they have the right to a prompt hearing in court to determine whether the child is to be further detained or released. Detention hearings are to be held by the judge or by a referee. The court may at any time order the release of the child, whether a detention hearing is held or not.

No child shall be held in detention or shelter longer than 48 hours excluding Sundays and holidays, unless an order for continued detention or shelter has been made by the court.

Statutory References. — Section 78-3a-30, Utah Code Annotated 1953, as amended.

Rule 12. Prehearing procedure in detention cases.

Preliminary inquiries and intake procedures shall be promptly conducted in cases involving children in shelter care or detention. If a petition is not filed within five (5) days after admission excluding weekends and holidays, such child shall be released from detention or shelter care unless otherwise directed by the court.

Statutory References. — None.

Rule 13. Detention or shelter hearing.

At the detention or shelter hearing, the court may admit any testimony and other evidence relevant to the necessity for detaining the child. A copy of the petition if it has been filed with the court shall be given to each of the parties at or before the shelter or detention hearing.

A shelter or detention hearing may be held without the presence of the child's parents if they cannot be located or fail to appear after receiving notification. If the parents are not present, the court may appoint counsel or a guardian ad litem for the child.

If, at the conclusion of the hearing, the court finds that continued detention or shelter care is unnecessary, the court shall order such child be released, or upon finding that one or more grounds exist under Rule 8, the court may order continued detention, shelter care, or home detention pending the adjudicatory hearing subject to review by the court once each seven (7) days during the continued shelter care, detention, or home detention.

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Attachment B

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State and Federal Rules and Code of Judicial Administration

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SECTION II.

DETENTION; WARRANTS; BAIL.

Rule 6. Admission to detention without court order.

Admission to detention without court order is governed by Utah Administrative Rules Title R547, Chapter 13, Guidelines for Admission to Secure Youth Detention Facilities.

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

(a) The issuance and execution of a warrant is governed by Title 77, Chapter 7, Arrest, and by § 78-3a-28 and § 78-3a-29.

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

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

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

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

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

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

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

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

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

(2) has violated a court order.

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

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

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

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

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

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

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

(e) Search warrants, with an order of immediate custody, may be issued in the manner provided by law and Rule 35(c).

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

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

Rule 8. Rights of minor while in detention.

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

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

(c) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor under 14 years of age held in the facility without the minor's parent, guardian or custodian present, unless:

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

(2) the parent, guardian or custodian had been advised of the minor's constitutional rights as provided in Rule 26 and has waived such rights; and

(3) the minor had been advised of the minor's constitutional rights as provided in Rule 26 and has intelligently waived such rights.

(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor 14 years of age or older in a detention facility without the consent of the minor and the minor's parent, guardian or custodian after first advising said minor of constitutional rights as described in Rule 26 and such rights having been intelligently waived by the minor.

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

Advisory Committee Note. — The limitation on interviews is intended to extend to interviews regarding the charges for which the minor is being detained and any other charges under investigation.

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

Rule 9. Detention hearings; scheduling; hearing procedure.

(a) The officer in charge of the detention facility shall provide to the court a copy of the report required by Section 78-3a-29(5). A judge or court commissioner shall immediately investigate the matter and shall order the release of the minor to the parent, guardian or custodian unless there is reason to believe:

(1) the minor will abscond or be taken from the jurisdiction of the court unless detained;

(2) the offense alleged to have been committed is of such a nature that it would be a felony if committed by an adult;

(3) the minor's parent, guardian or custodian cannot be located;

(4) the minor's parent, guardian or custodian refuses to accept custody of the minor;

(5) the minor's parent, guardian or custodian will not produce the minor before the court at an appointed time;

(6) the minor will undertake witness intimidation;

(7) the minor's past record indicates the minor may be a threat to the public safety;

(8) the minor has problems of conduct or behavior so serious or the family relationships are so strained that the minor is likely to be involved in further delinquency; or

(9) the minor has failed to appear for a court hearing within the past twelve months.

Attachment C

Utah Statutes Annotated - 2004

Utah R. Juv. P. Rule 8

West's Utah Court Rules Annotated Currentness
State Court Rules
Utah Rules of Juvenile Procedure
Section II. Detention; Warrants; Bail

RULE 8. RIGHTS OF MINOR WHILE IN DETENTION

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

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

(c) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor under 14 years of age held in the facility regarding an offense chargeable against the minor without the minor's parent, guardian or custodian present, unless:

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

(2) the parent, guardian or custodian had been advised of the minor's constitutional rights as provided in Rule 26(6) and (7) and has knowingly and voluntarily waived such rights; and

(3) the minor had been advised of the minor's constitutional rights as provided in Rule 26(6) and (7) and has knowingly and voluntarily waived such rights.

(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor 14 years of age or older in a detention facility regarding an offense chargeable against the minor without the consent of the minor and the minor's parent, guardian or custodian after first advising said minor of constitutional rights as described in Rule 26 and such rights having been knowingly and voluntarily waived by the minor.

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

[Effective January 1, 1995; amended effective April 1, 2000.]

ADVISORY COMMITTEE NOTE

The limitation on interviews is intended to extend to interviews regarding the charges for which the minor is being detained and any other charges under investigation.
This rule evolved from former rule 10 at a time when the court was responsible for admission to detention. That responsibility now belongs to the Division of Youth Corrections, which has established admission guidelines. Utah Administrative Rules R547-13-1 et seq. This rule and former rule 10 balance the important rights of the minor with those of the public. Because these provisions have historically been found in the juvenile court rules, they have not yet been incorporated into any other rule or statute. Until the Legislature or the Division of Youth Corrections acts to restate these provisions, it is necessary that they be stated here.

LIBRARY REFERENCES

Infants 174, 192.
Westlaw Key Number Searches: 211k174; 211k192.
C.J.S. Infants §§ 41, 53 to 55, 58.

NOTES OF DECISIONS

Detention facility 2
Parental presence 1

1. Parental presence

Fact that police interview with 17-year-old juvenile was conducted without juvenile's father present did not make juvenile's Miranda waiver invalid, where it was arguable whether the interview's course would have been altered by juvenile's father, who had originally informed personnel at youth mental health facility that the juvenile had killed a young boy and who had been helpful in arranging juvenile's release from the facility so that juvenile could help police locate the boy's burial site. State v. Bybee, 2000, 1 P.3d 1087, 395 Utah Adv. Rep. 17, 2000 UT 43. Criminal Law 412.2(5)

2. Detention facility

Youth mental health facility in Nevada was not a "detention facility," within meaning of rule of juvenile procedure regarding consent to an interview of a minor in a detention facility, where juvenile's father and the facility, rather than state of Utah, controlled conditions and duration of juvenile's stay at the facility and the facility was not operated by or under contract with Utah Department of Youth Corrections. U.C.A.1953, 62A-7-104(2), 62A-7-201(6); U.C.A.1953, 62A-7-101(17, 18) (1996); Juvenile Procedure Rule 8(d) (1999). State v. Bybee, 2000, 1 P.3d 1087, 395 Utah Adv. Rep. 17, 2000 UT 43. Infants 192

State and Federal court rules are current through amendments received through July 1, 2004.

End of Document

Utah Statutes Annotated - 2006

Utah R. Juv. P. Rule 8

West's Utah Court Rules Annotated Currentness
State Court Rules
Utah Rules of Juvenile Procedure
Section II. Detention; Warrants; Bail

RULE 8. RIGHTS OF MINOR WHILE IN DETENTION

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

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

(c) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor under 14 years of age held in the facility regarding an offense chargeable against the minor without the minor's parent, guardian or custodian present, unless:

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

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

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

(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a minor 14 years of age or older in a detention facility regarding an offense chargeable against the minor without the consent of the minor and the minor's parent, guardian or custodian after first advising said minor of constitutional rights as described in Rule 26 and such rights having been knowingly and voluntarily waived by the minor.

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

[Effective January 1, 1995; amended effective April 1, 2000; November 1, 2005.]

ADVISORY COMMITTEE NOTE

The limitation on interviews is intended to extend to interviews regarding the charges for which the minor is being detained and any other charges under investigation.
This rule evolved from former Rule 10 at a time when the court was responsible for admission to detention. That responsibility now belongs to the Division of Juvenile Justice Services, which has established admission guidelines. Utah Administrative Rules R547-13-1 et seq. This rule and former Rule 10 balance the important rights of the minor with those of the public. Because these provisions have historically been found in the juvenile court rules, they have not yet been incorporated into any other rule or statute. Until the Legislature or the Division of Juvenile Justice Services acts to restate these provisions, it is necessary that they be stated here.

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Current with amendments effective November 1, 2006

End of Document

Utah Statutes Annotated - 2009

Utah R. Juv. P. Rule 8

West's Utah Code Annotated Currentness
State Court Rules
Utah Rules of Juvenile Procedure (Refs & Annos)
Section II. Detention; Warrants; Bail

RULE 8. RIGHTS OF MINOR WHILE IN DETENTION

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

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

(c) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a child under 14 years of age held in the facility regarding an offense chargeable against the child without the child's parent, guardian or custodian present, unless:

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

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

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

(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a child 14 years of age or older in a detention facility regarding an offense chargeable against the child without the consent of the child and the child's parent, guardian or custodian after first advising said child of constitutional rights as described in Rule 26 and such rights having been knowingly and voluntarily waived by the child .

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

CREDIT(S)

[Effective January 1, 1995; amended effective April 1, 2000; November 1, 2005; April 1, 2008.]

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Current with amendments received through October 1, 2009.

End of Document

Attachment D

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

November 2, 2018	Noon to 2:00 p.m.	Conference Rooms B & C
MEETING DATE	TIME	LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	☒	☐	☐	Daniel Gubler	☒	☐	☐
Judge Elizabeth Lindsley	☒	☐	☐	Sophia Moore (by telephone)	☒	☐	☐
Judge Mary Manley	☒	☐	☐	Mikelle Ostler	☒	☐	☐
Arek Butler	☒	☐	☐	Jordan Putnam	☒	☐	☐
Trish Cassell	☒	☐	☐	Chris Yannelli	☐	☐	☒
Monica Diaz	☒	☐	☐		☐	☐	☐
Kristin Fadel	☒	☐	☐		☐	☐	☐
David Fureigh	☒	☐	☐		☐	☐	☐

AOC STAFF:	Present	Excused	GUESTS:	Present	Absent
Katie Gregory	☒	☐	Alan Sevison	☒	☐
Jean Pierce	☒	☐	Bridget Koza	☒	☐
Keegan Rank	☒	☐		☐	☐

AGENDA TOPIC

I. Welcome & Approval of Minutes	CHAIR: CAROL VERDOIA
Corrections to the Minutes: None.	
Motion: To approve the minutes of October 12, 2018.	By: Judge Lindsley Second: Daniel Gubler
Approval	☒ Unanimous ☐ Vote: In Favor_____ Opposed _____

AGENDA TOPIC

II. Review of Advisory Committee Notes	CAROL VERDOIA

Carol Verdoia discussed a letter from the Utah Supreme Court, which requested that members review all Advisory Committee Notes for accuracy and continuing relevance. The Committee reviewed and took action on the following Advisory Committee Notes:

Rule 8

- Ms. Diaz commented that the Note covered an issue regarding the rights of minors that no other rule or statute contained.
- Judge Lindsley felt that this Note should be retained.
- Ms. Verdoia commented that the Note provides a historical context to Rule 8.
- The Committee decided to report to the Supreme Court that the Note to Rule 8 is necessary to explain the rights protected by the Rule.

Rule 9

- The Committee discussed the Note to Rule 9.
- Judge Lindsley motioned for the Note to be deleted as no longer necessary. Ms. Diaz

seconded the motion, and it passed unanimously.

Rule 11

- Note was discussed and the committee felt the Note is redundant because the statute is referenced in subsection 3 of the Rule.
- Mr. Gubler motioned to have the Note removed. Judge Manley seconded the motion, and it passed unanimously.

Rule 18

- The Note to Rule 18 predated the longest serving members of the committee so no historical information could be provided.
- Ms. Verdoia commented that section 78A-6-109 is already referenced in the Rule.
- There was discussion on whether service is required on a minor.
- Ms. Verdoia felt the Note was confusing rather than clarifying and should be removed.
- Ms. Cassell moved to have the Note removed. Mr. Putnam seconded the motion, and it passed unanimously.

Rule 24, 25 & 26

- Judge Lindsley noted that the same advisory note is given for Rules 24, 25 and 26. The Note was included for clarification on the requirement to advise parties of their rights, but members noted that confusion on available rights has not been an issue.
- Ms. Diaz suggested that the Note could be helpful to pro se parties to let them know they have additional rights beyond the ones discussed in the Rules.
- Ms. Verdoia agreed that the Notes were added for clarification, but asked members to consider whether the clarification could be included in the Rules.
- Judge Lindsley did not think the Note should be included in the Rules because it is rare to have pro se litigants in delinquency cases.
- The committee decided to have the issue brought to the Supreme Court to see if the Court would like the committee to take another look at the Note based on whether or not it impacts pro se litigants.

Rule 27

- Discussion took place on whether the Note was helpful to practitioners who do not regularly practice in delinquency proceedings.
- The cross reference in the Rule has the same effect as the Advisory Note. Members noted that the Code of Judicial Administration governs the destruction of evidence.
- Judge Lindsley motioned to have the Note removed. Ms. Diaz seconded the motion, and it passed unanimously.

Rule 27A

- Discussion took place on whether the Note was needed when juveniles are informed of their rights in the Miranda warning.
- The Note explains rights beyond those of Miranda and clarifies the intent of the Rule. However, members thought the Note could be too limiting.
- Ms. Cassel moved to have the Note removed. Mr. Butler seconded the motion, and it passed unanimously.

Rule 30

- This Note was included to provide clarification for out-of-state youth who receive a citation in Utah. However, the Note is not necessary because it is already included in the Rule.
- Mr. Butler motioned to have the Note removed. Mr. Gubler seconded the motion, and it passed unanimously.

Rule 41

- Judge Lindsley commented that the Note should be kept because it contains an example of the rule's application.

• Jordan Putnam mentioned that the Note is helpful for practitioners. • Committee members agreed that the Note should be retained.	
Action Item:	Present Rules 9, 11, 18, 27, 27A and 30 to the Supreme Court and request that the Advisory Committee Notes be deleted. Discuss Rules 24, 25 and 26 with the Supreme Court to address the needs of pro se litigants.

AGENDA TOPIC

III. Continued Discussion of Tribal Participation in Juvenile Court	**ALAN SEVISON**

Alan Sevison, as an *ex officio* member of the Committee, provided a draft rule pertaining to tribal participation in juvenile court for the committee to review and discuss. During the meeting Katie Gregory also sent an email to the committee containing a memo from Martha Pierce, which was previously circulated in March 2018. Judge Lindsley suggested the committee also consider the decision of the federal District Court in Texas.

Alan Sevison presented his proposed rule. His goal in drafting the rule was to outline some procedural steps for the court to take in determining if ICWA applies since current practice varies. The proposal outlines procedures for determining if ICWA applies. Once established the rule contains guidance on tribal access to the proceeding. He discussed intervention of right as well as joinder of a party by a court. If the tribe does not intervene and is not joined as a party, questions arise as to what rights a tribe has to participate and be heard. Mr. Sevison discussed his proposal to allow the court to determine what level of participation may be granted for a non-party.

The committee discussed examples such as participation by tribal social workers or ICWA specialists and issues this causes in determining who is a designated member with authority to represent the tribe. The issue is complicated by the fact that tribes often cannot afford and do not have the resources to have an attorney present to represent the tribe. The committee also discussed whether the proposed rule leaves sufficient room for judicial discretion in allowing participation. State statute and Intergovernmental Agreements also require DCFS to share information with tribes. The Office of Guardian ad Litem takes the position that a rule is not needed and promulgating rules may cause more confusion or create rights that have not previously existed. Further discussion included how to determine who is allowed to represent the tribe as a non-lawyer and the impact on *pro hac vice* rules.

Members suggested asking tribal representatives what they want and need regarding tribal participation in court. Bridget Koza suggested a discussion with the Utah Tribal Leaders at one of their upcoming meetings to collect their thoughts on a rule of procedure for tribal participation in juvenile court. Alan Sevison will ask Alisa Lee from DCFS to address this with the Utah Tribal Leaders.

Action Item:	Alan Sevison will ask Alisa Lee to discuss the position of the tribes at the Utah Tribal Leaders Meeting in November and give feedback to the Committee.

AGENDA TOPIC

IV. Old or New Business	**ALL**

The Committee discussed agenda items for the December 7 meeting. The Committee decided to move its prior Rule 9 amendments forward to the Supreme Court, but agreed to table discussion of the impact of *County of Riverside v. McLaughlin* on the constitutionality of Rule 9 due to pending litigation. Sophia Moore asked that a memorandum on the issue from the National

Juvenile Defense Center be emailed to Committee members when the issue is next discussed. Alan Sevison will contact Alisa Lee for input on the issue of a tribal participation rule. If information and feedback is available, the issue will be placed on the agenda for December 7. If not, the issue will be postponed until the January 2019 meeting.	
Action Item:	Send already revised portions of Rule 9 to the Supreme Court for further action.

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

End of Document

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

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

Rule 7. Warrants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective September 27, 2021

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.

End of Document

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

End of Document

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 i s 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

End of Document

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

(a) When service is required.

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

(A) a judgment;

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

(C) a pleading after the original complaint;

(D) a paper relating to disclosure or discovery;

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

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

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

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

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

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

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

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

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

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

(b) How service is made.

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

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

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

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

(3) Methods of service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Advisory Committee Notes

Note adopted 2015

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

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

Rule 10. Form of pleadings and other papers.

(a) Caption; names of parties; other necessary information.

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

(2) Names of the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Electronic papers.

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

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

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

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

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

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

End of Document

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