

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: December 3, 2021

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of November 5, 2021 Meeting minutes & Finalize 2022 Meeting Dates	Tab 1	David Fureigh
Discussion & Action: Rule 60: Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion	Tab 2	Judge Paul Dame
Action: Rule 11: Time limits on detention orders. <ul style="list-style-type: none">• <i>Public comment period closed; No comments received</i>	Tab 3	David Fureigh
Discussion & Action: Rule 25: Pleas and Rule 25A: Withdrawal of Plea	Tab 4	Bridget Koza
Discussion & Action: Rule 7: Warrants	Tab 5	Janette White
Discussion: Civil Rule changes and impact on Juvenile Rules	Tab 6	All
Discussion: Rule 17: The Petition <ul style="list-style-type: none">• <i>Delinquency petitions and nonjudicial adjustments – compliance language in petitions regarding Utah Code section 80-6-304(11)</i>	Tab 7	Judge Debra Jensen
Discussion: Old business or new business		All

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

Proposed 2022 Meeting Schedule:

January 7, 2022

February 4, 2022

March 4, 2022 – Last Day of Legislative Session

April 1, 2022

May 6, 2022 – Last Day of Juvenile Court Spring Conference

June 3, 2022

July 1, 2022 – Friday Before Fourth of July

August 5, 2022

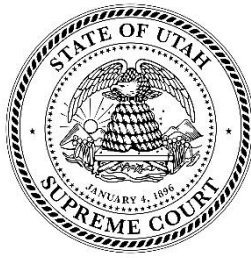
September 2, 2022 – Friday Before Labor Day

October 7, 2022 – Friday Before Columbus Day

November 4, 2022

December 2, 2022

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: November 5, 2021

Time: 12:00 pm – 2:00 pm

<u>Attendees:</u> David Fureigh, Chair Judge Paul Dame Michelle Jeffs (arrived 12:30 pm) Judge Debra Jensen Matthew Johnson Sophia Moore Jordan Putnam Mikelle Ostler William Russell Janette White Carol Verdoia, Emeritus Member	<u>Excused Members:</u> Arek Butler Kristin Fadel Chris Yanelli
<u>Staff:</u> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	<u>Guests:</u> Chris Williams, Office of Legislative Research and General Counsel

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

David Fureigh welcomed everyone to the meeting and asked for approval of the October 1, 2021 meeting minutes.

Judge Debra Jensen moved to approve the October 1, 2021 meeting minutes. Judge Paul Dame seconded the motion, and it passed unanimously.

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

David Fureigh provided background information for the committee's continued discussion about the time frames in paragraph d. He noted that previous proposed changes to the time frames was to exclude counting weekends and holidays. The language was approved by the Supreme Court and went out for comment. Comments were received from the ACLU and Planned Parenthood regarding concerns about the proposed change.

Judge Dame discussed with the committee that prior to November 1, 2018, Rule 60 read in conjunction with Rule 4, allowed the court to exclude weekends and holidays from the time frames in paragraph d. On November 1, 2018, Rule 4 was changed to include weekends and holidays which inadvertently changed the time frame under Rule 60. Judge Dame noted that proposed change to excluding weekends and holidays from the time period would give Guardians ad Litem the necessary time to meet with the petitioner, and give the court time to resolve the petition. The committee had a lengthy discussion about how the proposed time frame would affect when a petition would be resolved depending on what day it was filed and if there an intervening on holiday during the time frame. The committee also discussed when the hearing required under paragraph d is scheduled and it depends on the court's calendar but typically on the second or third day after the petition is filed. David Fureigh suggested that he reach out to Planned Parenthood and the ACLU to explain the reasoning being the proposed change before the committee finalize it.

The committee agreed that David will contact the ACLU and Planned Parenthood to let them know the reasoning behind the proposed change to Rule 60, and the committee agreed that the agenda item will be put on the December 3, 2021 meeting.

3. Action: Rule 44: Findings and conclusion: (David Fureigh)

David Fureigh discussed with the committee that Rule 44 was updated with new statutory references due to the Juvenile Code Recodification and updating outdated language. Rule 44 went out for comment and no comments were received. Judge Dame noted that the statutory references in paragraph e are not sequential and suggested listing them in sequential order. The committee agreed to the change.

Matthew Johnson motioned to present the revised Rule 44 (Draft November 5, 2021) with the change of statutory references being in sequential order in paragraph e to the Supreme Court for final publication. Janette White seconded the motion and it passed unanimously.

4. Discussion & Action: Rule 8: Rights of minors while in detention: (David Fureigh)

David Fureigh reviewed the committee the proposed changes to Rule 8 that were discussed at the October 1, 2021 meeting and discussed with the committee whether the Advisory Committee Note needs to be included in the Rule with the proposed changes. The note has been there since Rule 8 was finalized in January 1995. David noted that there were two original purposes for the note: (1) to let practitioners know that Rule 8 was previously Rule 10, and (2) to set forth rights that were not in other administrative rules or statute. He stated, however, that because the rights in Rule are now in statute the note might not be necessary. Bill Russell agreed that the note was superfluous. Carol Verdoia spoke with Brett Peterson, the Juvenile Justice Service Division Director, about the note and he did not think that the cross reference to Administrative Rule R547-13-1 was necessary.

Bill Russell motioned to eliminate the Advisory Committee Note to Rule 8. Sophia Moore seconded the motion and it passed unanimously.

The committee had further discussions about whether paragraph b should be kept in the rule and the committee agreed to leave it in.

Judge Dame motioned to present the revised Rule 8 (Draft November 5, 2021) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Matthew Johnson seconded the motion and it passed unanimously.

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

Bridget Koza discussed with the committee whether Rule 25 and 25A should be revised since most of the language is now in statute due to the Juvenile Code Recodification. Judge Dame pointed out that for Rule 25 – paragraph a is duplicative of Utah Code section 80-6-306(1), (3) and (4); paragraph d is duplicative in 80-6-306(5); and paragraph f is similar to 80-6-306(2). Mikelle Ostler mentioned that in the Juvenile Court’s case management system (C.A.R.E.) there are references to Rule 25(f) in dispositions and hearing types. The committee then discussed whether paragraph f should remain Rule 25 since there is a slight difference with a motion to dismiss the plea held in abeyance being required under the Rule and not statute. Judge Dame noted that under the rule a motion is required to dismiss the plea, whereas under 80-6-306, a motion is not required and the court may dismiss it on its own. The committee then discussed the implications of requiring a motion to dismiss the charge. Bridget agreed to redline Rule 25 with proposed revisions to remove paragraph a, d, and f so the committee can discuss at the December 3, 2021 meeting.

Bill Russell motioned to have delete paragraphs a, d, and f from Rule 25 and discuss further at the December 3, 2021 meeting. Judge Dame seconded the motion and it passed unanimously.

The committee then discussed Rule 25A. Judge Dame suggested repealing Rule 25A since it is duplicative of Utah Code section 80-6-306(7)-(9). Bridget agreed to redline Rule 25A with the proposed change to repeal it so the committee can discuss at the December 3, 2021 meeting.

The committee agreed to review proposed changes to Rule 25 and 25A and agreed that the agenda item will be put on the December 3, 2021 meeting.

Sophia Moore left the meeting at 12:51 pm.

- 6. 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)

David Fureigh reviewed with the committee amending Rule 7 to allow for ex parte motions to vacate runaway E-warrants for youth in DCFS custody. Bridget Koza noted that the reason for amending the rule is because you can only have ex parte motions that have been authorized by statute or rule. The amendment would address situations where there is not a hearing coming up, but the warrant needs to be vacated because the youth has active warrants and has returned to placement, aged out and DCFS custody is terminated, court jurisdiction is terminated, or a new E-warrant is needed for a different return location. Carol Verdoia agreed, and stated that these scenarios happen often, and allowing ex parte motions would be more efficient and ensure there runaway warrants that aren't valid or necessary are still on the Utah Criminal Justice Information System. Judge Dame inquired as to whether anyone from the Guardian ad Litem's Office would have any concerns with such ex parte motions. Matthew Johnson stated that he doesn't believe there would be any concerns. Carol noted that the cross references in Rule 7 might need to updated to address that child welfare warrants are in Utah Code Section 62A. Janette White agreed to draft proposed language for the committee to consider adding to the rule. Bill Russell suggested the paragraph be added after subpart (g).

The committee agreed that Janette would draft proposed language for the committee at the December 3, 2021 meeting.

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

Bridget Koza reviewed with the committee that there have been changes to Rules 5, 7A, 7B, and 10 of the Rules of Civil Procedure and if these changes have any affect on the Juvenile Rules. Also, Juvenile Rule 2 states that Rules of Civil Procedure will apply

as long as they are not inconsistent with the Juvenile Rules, and Bridget mentioned that it might be worth it for the committee to consider amending Rule 2 to specifically state which Rules of Civil Procedure apply in Juvenile Court so there isn't confusion and given all the changes that have been made to the Rules of Civil Procedure.

Judge Jensen stated that there has been a lot of confusion among attorneys, and it might be necessary to create incorporate specific language in the Juvenile Rules. Matthew Johnson added that the Juvenile Rules should have their own specification as to filing because the Rules of Civil Procedure are changing constantly. Bridget informed the committee that other states specifically mention which Rules of Civil Procedure apply in Juvenile Court. Janette agreed that a rule that specifically states which Rules of Civil Procedure apply in Juvenile Court would be helpful. Carol Verdoia noted that there is confusion about whether the Rules of Civil Procedure, specifically around discovery, apply in substantiation proceedings so it should also be looked into. Judge Dame also stated that Rule 2 should be reviewed since there is confusion about which Rules of Civil Procedure and Rules of Criminal Procedure apply in delinquency proceedings. Judge Dame also inquired about the changes to Civil Rules 7A and 7B. Bridget stated she would pull committee meeting notes so the committee can review at the December 3, 2021 meeting. Jordan Putnam added that the changes were meant to make things easier for pro se parties.

The committee agreed that the agenda item will be put on the December 3, 2021 meeting.

The committee did not have any new or old business. The meeting adjourned at 1:56 pm. The next meeting will be held on December 3, 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 business days. The court may continue the hearing for no more than one business day if the court determines that the additional time is necessary to gather and receive more evidence. The clerk shall immediately provide notice of the hearing date and time. The hearing shall be closed to everyone except the petitioner, the petitioner's attorney, the guardian ad litem, and any individual invited by the petitioner. The petitioner shall be present at the hearing. The hearing may be held in chambers if recording equipment or a reporter is available.

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

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

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

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

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

TAB 3

Rule 11. Time limits on detention orders.

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

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

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

~~(3) Minors involved in a diversion in lieu of detention. The diversion agreement must specify that the agreement shall terminate within 30 days of the diversion in lieu of detention if a petition is not filed.~~ The diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a non-judicial adjustment is not entered into or if a petition is not filed, and the diversion agreement shall so specify.

~~(34)~~ Minors held in detention pending disposition or placement are governed by Utah Code Section 78A-6-11380-6-207.

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

UTAH COURT RULES – PUBLISHED FOR COMMENT

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Posted: September 27, 2021

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Rules of Juvenile Procedure – Comment Period Closed November 11, 2021

URJP011. Time limits on detention orders. Amend. Updates statutory references affected by H.B. 285 Juvenile Code Recodification (2021) and adds language to address when diversion in lieu of detention agreements can terminate due to either non-judicial adjustment being entered into or a petition being filed.

This entry was posted in [-Rules of Juvenile Procedure, URJP011.](#)

« [Rules Governing the Utah State Bar – Comment Period Closed November 11, 2021](#)

[Rules of Juvenile Procedure – Comment Period Closed October 7, 2021](#) »

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- CJA03-0111.02

TAB 4

Rule 25. Pleas

~~((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.)~~

(A minor may tender a denial, an admission, or a plea of no contest pursuant to Utah Code Section 80-6-306.)

(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

Commented [BK1]: 80-6-306(1,3,4) - (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.

...

(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.

Commented [BK2]: Proposed language if we want to direct practitioners to language in statute.

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.~~

(ed) 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.~~

Commented [BK3]: 80-6-306(5) - (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.

Commented [BK4]: 80-6-306(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.

1 Rule 25A. Withdrawal of Plea

2 ~~((a) A denial of an offense may be withdrawn at any time prior to adjudication.~~

3 ~~(b)(1) An admission or a plea of no contest may be withdrawn only upon leave of the~~
4 ~~court and a showing that it was not knowingly and voluntarily made.~~

5 ~~(2) A request to withdraw an admission or a plea of no contest, including a plea held in~~
6 ~~abeyance, shall be made within 30 days after entering the plea, even if the court has~~
7 ~~imposed disposition. If the court has not imposed dispositional orders then disposition~~
8 ~~shall not be announced unless the motion to withdraw is denied.)~~

9 Repealed.

Commented [BK1]: 80-6-306 (7,8, and 9) - (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.

TAB 5

Rule 7. Warrants.

(a) The issuance and execution of a warrant is governed by Title 77, Chapter 7, Arrest; Utah Code sections [62A-4a-202.1](#), 78A-6-102, 80-6-202, and 78A-6-352; and Rule 40 of the Utah Rules of Criminal Procedure.

(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:

(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) 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:

(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 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;

(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) 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 Division of Child and Family Services may file an *ex parte* motion to vacate a warrant issued for a child who is missing, has been abducted, or has run away pursuant to Utah Code Section 62A-4a-202.1 prior to a peace officer or a child welfare worker executing the warrant.

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

(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.

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

(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;

(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

(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.

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TAB 9

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

UT Rules Civ. Proc., Rule 7A

Rule 7A. Motion to Enforce Order and for Sanctions

Effective: May 1, 2021

[Currentness](#)

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

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

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

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

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

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

(1) the motion requests an earlier date; and

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

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

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

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

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

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

Credits

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

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

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

UT Rules Civ. Proc., Rule 7B

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

Effective: May 1, 2021

[Currentness](#)

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

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

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

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

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

(1) the motion requests an earlier date; and

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

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

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

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

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

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

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

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

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

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

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

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

Credits

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

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

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

(a) When service is required.

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

(A) a judgment;

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

(C) a pleading after the original complaint;

(D) a paper relating to disclosure or discovery;

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

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

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

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

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

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

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

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

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

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

(b) How service is made.

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

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

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

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

(3) Methods of service. A paper is served under this rule by using one or more of the methods in the following paragraphs.:

(A) Electronic filing. ~~except~~ Except in the juvenile court, a paper is served by 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) Email. A paper not electronically served under paragraph (b)(3)(A) is served by 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 (ii) ~~to~~ the email address on file with the Utah State Bar. If email service to the email address is returned as undeliverable, service must then be made by another method in accordance with paragraph (b)(3)(C). Service is complete upon the attempted email service for purposes of the sender meeting any time period, provided service by another

method is made within 3 days following receipt of an undeliverable email notice, excluding Saturday, Sunday, or legal holidays.

(C) **Mail and other methods.** This paragraph applies if the person required to serve or be served with a paper has notified the court and the parties that the person does not have the ability to serve and receive documents by email or an email is returned as undeliverable. This paragraph also applies if the person to be served has not provided an email address to the court under Rule 10. A paper may be served under this paragraph 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. No certificate of service is required when a paper is served by filing it with the court's electronic-filing system under paragraph (b)(3)(A). When a paper that is required to be served is served by other means:

(1) if the paper is filed, a certificate of service showing the date and manner of service must be filed with it or within a reasonable time after service; and

(2) if the paper is not filed, a certificate of service need not be filed unless filing is required by rule or court order.

~~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) when service to all parties is made under paragraph (b)(3)(A).~~

(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.

[Effective January 1, 2022](#)

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

127 having been filed. So in the juvenile court, a party electronically filing a document must
128 serve that document by one of the other permitted methods.

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

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

(2) Names of the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 **(i) Electronic papers.**

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

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

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

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

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

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

Utah R. Juv. P. Rule 19A

Rule 19A. Motions and Orders

Currentness

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

(b) Name and Content of Motion.

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

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

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

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

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

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

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

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

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

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

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

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

(d) Name and Content of Reply Memorandum.

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

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

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

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

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

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

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

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

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

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

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

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

(j) All dispositive motions shall be heard at least fourteen days before the scheduled trial date unless otherwise ordered by the court. No dispositive motions shall be heard after that date without leave of the court.

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

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

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

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

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

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

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

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

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

(4) Be accompanied by a proposed order

(m) Orders.

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

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

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

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

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

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

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

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

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

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

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

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

(A) a stipulated motion;

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

(C) an ex parte motion;

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

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

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

Credits

[Adopted effective November 1, 2017.]

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

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

Utah R. Juv. P. Rule 39

Rule 39. Contempt of Court

Currentness

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

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

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

Credits

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

Utah Rules of Juvenile Procedure Rule 39, UT R JUV Rule 39

Current with amendments received through May 1, 2021

End of Document

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TAB 6

Rule 17. The petition.

(a) Delinquency cases.

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

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

(b) Neglect, abuse, dependency, permanent termination and ungovernability cases.

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

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

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

(4) A petition for termination of parental rights shall also include, to the best information or belief of the petitioner: the name and residence of the petitioner; the sex and place of birth of the minor; the relationship of the petitioner to the minor; the dates of the birth of the minor's parents; and the name and address of

the person having legal custody or guardianship, or acting in loco parentis to the minor, or the organization or agency having legal custody or providing care for the minor.

(c) Other cases.

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

(2) Petitions 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. Petitions for expungement must be accompanied by an original criminal history report obtained from the Bureau of Criminal Identification and proof of service upon the County Attorney, or within a prosecution district, the District Attorney for each jurisdiction in which an adjudication occurred prior to being filed with the Clerk of Court.

(3) Petitions for expungement of nonjudicial adjustments must meet all of the criteria of Utah Code section 80-6-1005 and shall state: the name, age, and residence of the petitioner. Petition for nonjudicial expungement must be served upon the County Attorney, or within a prosecution district, the District Attorney for each jurisdiction in which a nonjudicial adjustment occurred.

(4) Petitions for vacatur must meet all of the criteria of Utah Code section 80-6-1002 and shall state any agency known or alleged to have documents related to the offense for which vacatur is sought. Petitions for vacatur must be accompanied by an original criminal history report obtained from the Bureau of Criminal Identification and proof of service upon the County Attorney, or within a prosecution district, the District Attorney for each jurisdiction in which an adjudication occurred prior.

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

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80-6-304 Nonjudicial adjustments.

- (1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections (3), (4), and (5) to determine whether the minor is eligible to enter into a nonjudicial adjustment.
- (2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.
- (3)
 - (a) The juvenile probation officer may:
 - (i) conduct a validated risk and needs assessment; and
 - (ii) request that a prosecuting attorney review a referral in accordance with Subsection (9) if:
 - (A) the results of the validated risk and needs assessment indicate the minor is high risk; or
 - (B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.
 - (b) If a minor violates Section 41-6a-502, the minor shall:
 - (i) undergo a drug and alcohol screening;
 - (ii) if found appropriate by the screening, participate in an assessment; and
 - (iii) if warranted by the screening and assessment, follow the recommendations of the assessment.
- (4) Except as provided in Subsection (5)(b), the juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection (9) if:
 - (a) the referral involves:
 - (i) a felony offense; or
 - (ii) a violation of:
 - (A) Section 41-6a-502, driving under the influence;
 - (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
 - (C) Section 76-5-206, negligent homicide;
 - (D) Section 76-9-702.1, sexual battery;
 - (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or
 - (F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;
 - (b) the minor has a current suspended order for custody under Section 80-6-711; or
 - (c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:
 - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
 - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
 - (iii) Section 76-5-203, murder or attempted murder;
 - (iv) Section 76-5-302, aggravated kidnapping;
 - (v) Section 76-5-405, aggravated sexual assault;
 - (vi) Section 76-6-103, aggravated arson;
 - (vii) Section 76-6-203, aggravated burglary;
 - (viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

- (5)
- (a) Except as provided in Subsections (3) and (4), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:
 - (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
 - (ii) has no more than two prior adjudications; and
 - (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.
 - (b) If the juvenile court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the juvenile probation officer shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (4)(c).
 - (c)
 - (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.
 - (ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.
 - (d) Except as provided in Subsection (4), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (5)(a).
- (6) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:
- (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (8)(c);
 - (b) pay restitution to any victim;
 - (c) complete community or compensatory service;
 - (d) attend counseling or treatment with an appropriate provider;
 - (e) attend substance abuse treatment or counseling;
 - (f) comply with specified restrictions on activities or associations;
 - (g) attend victim-offender mediation if requested by the victim; and
 - (h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.
- (7)
- (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection (5), the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.
 - (b) The victim shall be responsible to provide to the juvenile probation officer upon request:
 - (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;
 - (ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and
 - (iii) proof of identification, including home and work address and telephone numbers.
 - (c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.
- (8)

- (a) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.
- (b) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (6).
- (c) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (6) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.
- (d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.
- (e)
 - (i) Notwithstanding Subsection (8)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (8)(d) for a minor who is offered a nonjudicial adjustment under Subsection (5)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (9)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:
 - (A) the nonjudicial adjustment requires specific treatment for the sexual offense;
 - (B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and
 - (C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.
 - (ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (8)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection (8)(e), but the judge may only grant each extension for 90 days at a time.
- (f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.
- (9) If a prosecuting attorney is requested to review a referral in accordance with Subsection (3) or (4), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection (5), the prosecuting attorney shall:
 - (a) review the case; and
 - (b)
 - (i) dismiss the case;
 - (ii) refer the case back to the juvenile probation officer for a new attempt at nonjudicial adjustment; or
 - (iii) except as provided in Subsections (10)(b), (11), and 80-6-305(2), file a petition with the juvenile court.
- (10)
 - (a) A prosecuting attorney may file a petition only upon reasonable belief that:
 - (i) the charges are supported by probable cause;
 - (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
 - (iii) the decision to charge is in the interests of justice.
 - (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (9)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (6) or conditions imposed through any other court diversion program.

- (11) A prosecuting attorney may not file a petition against a minor unless:
- (a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305;
and
 - (b)
 - (i) the minor does not qualify for a nonjudicial adjustment under Subsection (5);
 - (ii) the minor declines a nonjudicial adjustment;
 - (iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;
 - (iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry;
or
 - (v) the prosecuting attorney is acting under Subsection (9).
- (12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment.

Renumbered and Amended by Chapter 261, 2021 General Session