

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=m04992c4de650dfc96b8d74ee97463541>

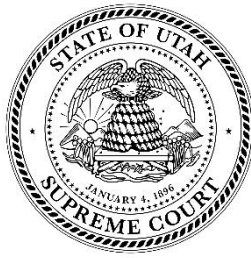
Date: February 4, 2022

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of January 7, 2022 Meeting minutes	Tab 1	David Fureigh
Action: Rule 8: Rights of minors while in detention. <ul style="list-style-type: none">• <i>Public comment period closed; No comments received</i>	Tab 2	David Fureigh
Discussion & Action: Rule 25: Pleas	Tab 3	Bill Russell
Discussion & Action: Rule 60: Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion	Tab 4	Judge Paul Dame
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 Paul Dame
Discussion: Old business or new business		All

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

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: January 7, 2022

Time: 12:00 pm – 2:00 pm

<u>Attendees:</u> David Fureigh, Chair Arek Butler Judge Paul Dame Michelle Jeffs Judge Debra Jensen Matthew Johnson Jordan Putnam Mikelle Ostler William Russell Chris Yanelli Carol Verdoia, Emeritus Member	<u>Excused Members:</u> Kristin Fadel Sophia Moore Janette White
	<u>Guests:</u> Valentina De Fex, Staff Attorney, ACLU of Utah John Mejia, Legal Director, ACLU of Utah Jason Groth, Deputy Legal Director, ACLU of Utah Annabel Sheinberg, Vice President External Affairs, Planned Parenthood Association of Utah
<u>Staff:</u> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	

1. Welcome and approval of the November 5, 2021 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the November 5, 2021 meeting minutes. *William Russell moved to approve the November 5, 2021 meeting minutes. Judge Paul Dame seconded the motion, and it passed unanimously.*

David then discussed the proposed 2022 meeting schedule and reviewed that meetings will be held the first Friday of every month from 12-2 pm, excluding July. *The committee agreed to the proposed schedule. Bridget Koza will send out calendar invites for the meetings.*

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

David introduced guests from the ACLU of Utah and Planned Parenthood Association of Utah and committee members made introductions. David Fureigh provided background information for the committee's continued discussion on the time frame for judicial bypass hearings under paragraph (d). David reviewed with the committee that Rule 4 was amended in 2018 to mirror the computation of time in the Utah Rules of Civil Procedure to count weekends and holidays. This change to Rule 4 inadvertently changed the time frame under Rule 60, which requires the juvenile court to hear and resolve a judicial bypass petition within three days. David noted that, under the current rule, a hearing must be held Monday for a petition filed on Friday, which makes it difficult for the Guardian ad Litem to meet with the petitioner and for the court to resolve the petition. David additionally noted that Rule 60 does allow for a one-day extension. The proposed changes to Rule 60 would align the time computation with the pre-2018 changes to Rule 4.

Valentia De Fex, staff attorney at the ACLU of Utah, then spoke on the impact of the proposed rule change. Ms. De Fex stated that the committee should consider the appellate process and the steps a minor must take before a petition is filed. Ms. De Fex noted that these steps can delay the process of obtaining care and can impact the cost and the type of procedure a minor must undergo. Ms. De Fex suggested that these delays make it even more imperative petitions are resolved as expeditiously as possible. Ms. De Fex explained that minors have a constitutional right to these proceedings and the pro bono attorneys, who assigned to represent minors through their clinic, are specifically trained in both the state process and constitutional law.

Annabel Sheinberg, Vice President External Affairs, Planned Parenthood Association of Utah, provided additional details on the steps a minor must take. Ms. Sheinberg noted that a minor must: find a provider, find a judicial advocate, complete the state mandated module, and wait the statutorily required 72 hours before obtaining further care. Ms. Sheinberg additionally noted that an individual can only receive a medication abortion up to 11 weeks. Ms. De Fex also explained the role of pro bono counsel and that it takes additional days to assign pro bono counsel and for counsel to meet with the minor.

The committee then proceeded to have a lengthy discussion on the proposed rule change. Mikelle Ostler made a recommendation to have the forms committee revise the petition to include a section for a petitioner to indicate whether there is a need to have the petition heard expeditiously. David noted that the petitions have to be heard expeditiously under the rule and case law. David then made a recommendation to revise the time frame so there is at least one business day between the filing and the hearing. The committee also discussed how often guardians ad litem are appointed in these rare proceedings and their ability to communicate with the petitioner before the hearing. After further discussion on the frequency of these cases and the impact of the proposed rule change, the committee agreed to take David's recommendation under consideration. *The committee agreed to put this agenda item on the February 4, 2022 meeting and for Judge Paul Dame to draft proposed language based on David's recommendation. Judge Paul Dame also agreed to meet with the judge who suggested the rule change, and Matthew Johnson agreed to reach out to other guardians ad litem for additional input.*

- 3. Action:** Rule 27A. Admissibility of statements given by minors; Rule 37. Child protective orders; Rule 45. Pre-Disposition Reports and Social Studies; and Rule 55. Transfer of minors who present a danger in detention: (Bridget Koza)

Bridget Koza reviewed with the committee that Rule 27A, 37, 45, and 55 went out for public comment on October 19, 2021. The comment period closed on December 3, 2021 and no comments were received. *Judge Dame motioned to present Rule 27A (Draft October*

1, 2021), Rule 37 (Draft October 1, 2021), Rule 45 (Draft October 1, 2021), and proposed repeal of Rule 55 (Draft October 1, 2021) to the Supreme Court for final publication effective immediately. Judge Jensen seconded the motion and it passed unanimously.

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

The committee continued to discuss proposed changes to Rules 25 and 25A. The committee first discussed Rule 25. Judge Paul Dame initially recommended changed “When denial is entered” to “When a denial is entered” in paragraph (b). The committee then proceeded to discuss Bill Russell’s proposal to Rule 25. In a January 6, 2021 email, Bill proposed adding a paragraph (e) to set forth a conceptual framework for a Rule 25(f) plea and for resolutions based on compliance or lack thereof. Bill Russell proposed the following language:

“If the court delays entry of a minor's plea as described in Utah Code Section 80-6-306(2), the court shall thereafter enter its finding as to whether or not the conditions of the delayed plea have been completed. Such finding may be entered upon the motion of any party or on the court's own motion, and after notice of and opportunity to be heard on the motion as described in these rules. Based on such finding, the court shall then proceed to modify the conditions, extend the time in which the minor may complete the conditions, enter the plea and proceed to disposition, or dismiss the petition.”

Judge Paul Dame commented that there would not be a consensus among judges regarding this issue and that it should be left to the judge’s discretion. Judge Dame also stated Utah Code Section 77-2a-4, on violations of please in abeyance agreements, can be used as procedural guidance.

Bill Russell then explained that, in his experience, the resolution of Rule 25(f) pleas have not been treated uniformly. Arek Butler and Mikelle Ostler also agreed that it would be better to have guidelines. The committee then had a lengthy discussion on the practice across the state and whether the procedure in Section 77-2a-4 should be followed, specifically, whether an affidavit needs to be filed with a motion. *The committee agreed to have Bill Russell, Judge Paul Dame, and Chris Yanelli work on proposed*

language for paragraph (e). The committee agreed to put this agenda item on the February 4, 2022 meeting.

Bridget Koza then reviewed with the committee the proposal to repeal Rule 25A. Judge Dame motioned to present the proposed repeal of Rule 25A (Draft January 7, 2022) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Michelle Jeffs seconded the motion and it passed unanimously.

5. Discussion: Rule 7: Warrants: (Janette White)

Bridget Koza prefaced the discussion on this agenda item. The committee did not have time to fully discuss the agenda item and agree that the agenda item will be put on the February 4, 2022 meeting.

6. Discussion: Civil Rules Changes and Impact on Juvenile Rules: (All)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the February 4, 2022 meeting.

7. Discussion: Rule 17: The Petition: (Judge Jensen)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the February 4, 2022 meeting.

The meeting adjourned at 2:03 pm. The next meeting will be held on February 4, 2022, at 12 pm via Webex.

TAB 2

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:~~

~~(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.~~

~~(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.~~

28 ~~ADVISORY COMMITTEE NOTES~~

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

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

38 Repealed.

UTAH COURT RULES – PUBLISHED FOR COMMENT

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

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

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

[HOME](#)
[LINKS](#)

Posted: November 18, 2021

Utah Courts

Search...

SEARCH

Rules of Juvenile Procedure – Comment Period Closes January 2, 2022

URJP008. Rights of minors while in detention. Repealed. Rule 8 will be repealed because it is superseded by Utah Code sections 80-6-205 and 80-6-206 that address the rights of minors while in detention.

This entry was posted in [-Rules of Juvenile Procedure, URJP008.](#)

« [Rule of Appellate Procedure – Comment Period Closes January 16, 2022](#)

[Rules Governing the Utah State Bar – Comment Period Closed December 23, 2021](#) »

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

CATEGORIES

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

UTAH COURTS

[View more posts from this author](#)

Leave a Reply

Your email address will not be published. Required fields are marked *

Comment

Name *

Email *

Website

POST COMMENT

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

TAB 3

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 a 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.

~~(fe) 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.~~

If the court, pursuant to Utah Code section 80-6-306, delays entry of a minor's admission, the court will, upon motion of the court or any party, make a finding on whether the minor has successfully completed the imposed conditions. If the motion is unopposed, the court may make its finding without a hearing. If the motion is opposed, the court will hold a hearing, and then make its finding. After the court makes its finding, it will issue an order pursuant to Utah Code section 80-6-306.

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.

TAB 4

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 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.

Commented [BK1]: Might need proposed language to allow oral motions to vacate warrants.

(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.

Formatted: Indent: Left: 1"

TAB 6

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

UT Rules Civ. Proc., Rule 7A

Rule 7A. Motion to Enforce Order and for Sanctions

Effective: May 1, 2021

[Currentness](#)

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

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

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

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

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

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

(1) the motion requests an earlier date; and

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

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

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

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

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

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

Credits

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

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

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

UT Rules Civ. Proc., Rule 7B

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

Effective: May 1, 2021

[Currentness](#)

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

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

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

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

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

(1) the motion requests an earlier date; and

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

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

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

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

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

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

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

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

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

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

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

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

Credits

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

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

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

End of Document

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

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

Utah R. Juv. P. Rule 39

Rule 39. Contempt of Court

Currentness

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

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

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

Credits

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

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

Current with amendments received through May 1, 2021

End of Document

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

TAB 7

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.

Effective October 19, 2021

Effective 9/1/2021

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