

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=m1a3668e9b565aa17177801b9eafdec1e>

Date: April 1, 2022

Time: 12:00 pm – 2:00 pm

| | | |
|--|-------|------------------------------------|
| Action: Welcome and approval of March 4, 2022 Meeting minutes | Tab 1 | David Fureigh |
| Action: Rule 25A. Withdrawal of Plea. <ul style="list-style-type: none"><i>Public comment period closed; 1 comment received</i> | Tab 2 | David Fureigh |
| Discussion & Action: <ul style="list-style-type: none">Rule 12: Admission to shelter careRule 13: Shelter hearingsRule 14: Reception of Referral; Preliminary Determination | Tab 3 | Matthew Johnson & Janette White |
| Discussion: Identification of Legislative Bills Requiring Rule Changes <ul style="list-style-type: none"><i>Please come prepared to share any legislation which may require rule changes or consideration.</i> <u>SB 108</u> - Indigent Defense Amendments <ul style="list-style-type: none"><i>Consider if changes to Juvenile Rules 13 and 35 need to be made with regards to advising individuals of right to counsel no later than first court appearance.</i> | Tab 4 | All |
| Discussion: Old business or new business | | All |

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

Meeting Schedule:

May 6, 2022

September 2, 2022

December 2, 2022

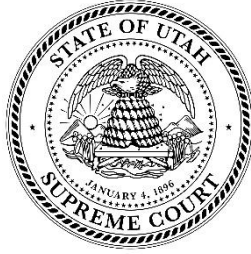
June 3, 2022

October 7, 2022

August 5, 2022

November 4, 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=m04992c4de650dfc96b8d74ee97463541>

Date: March 4, 2022

Time: 12:00 pm – 2:00 pm

| | |
|--|--|
| <u>Attendees:</u> David Fureigh, Chair Arek Butler Judge Paul Dame Kristin Fadel Michelle Jeffs Judge Debra Jensen Matthew Johnson Jordan Putnam Sophia Moore Mikelle Ostler William Russell Janette White Chris Yanelli | <u>Excused Members:</u> Carol Verdoia, Emeritus Member |
| | <u>Guests:</u> Judge Monica Diaz |
| <u>Staff:</u> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk | |

1. Welcome and approval of the February 4, 2022 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and committee members made professional practice disclosures as required by Rule 11-101 of the Supreme Court Rules of Professional Practice. David asked for approval of the February 4, 2022 meeting minutes.

Kristin Fadel moved to approve the February 4, 2022 meeting minutes. Arek Butler seconded the motion, and it passed unanimously.

David also discussed appointing a recording secretary with the committee. The committee can appoint a recording secretary under the rules and this individual can handle the meeting minutes and assist with preparing the agenda packets. David reviewed who can be appointed as recording secretary and asked committee members to think about individuals who could serve in the role.

The committee agreed to inform David and Bridget Koza of anyone interested in the position.

2. Discussion: Civil Rules 7A & 7B and impact on Juvenile Rules: (All)

David Fureigh reviewed with the committee that Civil Rules 7A and 7B change the procedure for orders to show cause. David commented that he liked these rules for child welfare proceedings but expressed concern that Juvenile Rule 39 allows for a more expedited procedure. Judge Dame agreed with this concern and noted that he did not think the committee needed to address the application of Civil Rules 7A and 7B in juvenile court since the timeframes in Civil Rules 7A and 7B are inconsistent with Juvenile Rule 39, and Rules of Civil Procedure that are inconsistent with Rules of Juvenile Procedure do not apply in juvenile court. Judge Dame additionally noted that Civil Rules 7A and 7B only provide that they are applicable in child protective order

cases. Matthew Johnson further commented that, in his experience, the rules would not apply in practice since orders to show cause are not typically filed in juvenile court.

Mikelle Ostler then asked the Committee whether the Rules of Juvenile Procedure provide a process for orders to show cause and, if not, whether it is needed. Judge Dame commented that he thought the procedure was implicit in the language of Juvenile Rule 39. Bridget and Arek Butler additionally commented that Juvenile Rule 39(b) talks about a motion to start a contempt proceeding.

David followed this discussion by asking the committee if they should make a list of rules that are in conflict with the Rules of Juvenile Procedure and whether the committee should change Juvenile Rule 2 to state that the “Rules of Civil Procedure do not apply unless they are specifically adopted by the Rules of Juvenile Procedure.” Judge Dame commented that amending Juvenile Rule 2 in this way would require a more in-depth discussion on whether the Rules of Juvenile Procedure should be independent or should incorporate other rules and proposed leaving Juvenile Rule 2 alone for the time being.

The committee agreed that the application of Civil Rules 7A and 7B did not need to be addressed and that no changes should be made to Rule 2 for the time being.

3. Discussion: Identification of Legislative Bills Requiring Rule Changes (All)

The committee discussed 2022 legislation that may require rule changes or consideration and noted the following legislation and its possible impact:

- **SB 85: Protective Order and Stalking Injunction Expungements.** David Fureigh noted that the bill may impact the Rules of Civil Procedure and conforming changes may be needed in the Juvenile Rules.
- **HB 248: Juvenile Amendments.** Bridget Koza noted that this second juvenile recodification changes references to 62A and that the references to 62A in Rules 12, 13, and 14 will have to be changed.

- **HB 299: Juvenile Justice Changes.** Bridget noted that this bill makes changes to bail and that the reference to bail in Rule 30 will have to be changed.
- **HB 277: Juvenile Competency Amendments.** Bridget noted that the rules should be reviewed to see if the bill implicates any of the rules.

The committee proposed assigning the bills and rules to committee members for review. Chris Yannelli agreed to review HB 299 and Rule 30; Janette White and Mathew Johnson agreed to review HB 248 and Rules 12, 13, and 14; Jordan Putnam agreed to review SB 85 and the impact on the Juvenile Rules; Bill Russell agreed to review potential changes to Rules 51 and 27A; and Sophia Moore agreed to review whether HB 277 implicates the rules. This agenda item will be placed on the April 1, 2022 meeting to continue the discussion

4. Discussion: Discussion: Rule 37B: Hearings with remote conferencing from a different location (Bridget Koza)

Bridget Koza discussed with the committee a recommendation to change Rule 37B to model Rule 29B to allow for certain child welfare proceedings to be held remotely without requiring a motion. David reviewed with the committee that the committee had created Rule 29B to list specific delinquency hearings that can be held remotely, because minors have a constitutional right to attend some delinquency hearings in person whereas a parent does not have a constitutional right to attend child welfare proceedings. Rule 37B is intended to apply to all child welfare proceedings. The committee members agreed that they like Rule 37B, because it is permissive and gives the juvenile court discretion to determine whether any child welfare hearing should be held in person.

Judge Dame additionally noted that Utah Rule of Civil Procedure 43 provides guidance for remote testimony. The committee then discussed whether the Rules of Juvenile Procedure should include a remote hearing oath, similar to Utah Rule of Civil Procedure 43(c), regarding what a witness may or may not refer to during a hearing.

5. Discussion & Action: Rule 17: The petition: (Judge Dame)

Judge Dame reviewed with the committee the proposal to amend subsection (a)(2) of Rule 17 to provide that “The petition shall state the specific condition that allows the filing of the petition pursuant to Utah Code section 80-6-304.” Janette White relayed to the committee that AGs in her district were okay with this proposed change as long as CARE can adapt to this requirement. Michelle Jeffs expressed concern that the proposed change would drastically slow down the current process in Weber County. Judge Diaz remarked that the rule change conforms to the statute and that a prosecutor does not have the authority to file a petition if they cannot verify the reason for the filing. Judge Dame agreed and commented that any benefit of the change outweighs any inconvenience and additionally noted that it would not apply to felony cases. The committee then had a discussion on the process for reviewing and referring cases in the different counties but ultimately agreed that it would not be unreasonable to have a statewide practice to add a statement to the petition on why it is being filed. Judge Dame then recommended adding the language “for all non-felony-level offenses” at the beginning of the sentence. The committee agreed to this additional change.

Janette White motioned to send Rule 17 (Draft March 4, 2022) to the Supreme Court for an initial 45-day comment period. Sophia Moore seconded the motion. Michelle Jeffs objected to the motion, but the motion carried (10 in favor and 1 opposed).

6. Old/New Business (All)

The committee members discussed preference for returning to in-person meetings or continuing to have virtual meetings. Most members expressed interest in a hybrid model.

The meeting adjourned at 1:55 pm. The next meeting will be held on April 1, 2022, at 12 pm via Webex.

TAB 2

Rule 25A. ~~Withdrawal of Plea~~

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

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

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

Repealed.

UTAH COURT RULES – PUBLISHED FOR COMMENT

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Posted: January 19, 2022

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Rules of Juvenile Procedure – Comment Period Closed March 5, 2022

URJP025A. Withdrawal of Pleas. REPEALED. Rule 25A will be repealed because procedures governing the withdrawal of pleas are contained in Utah Code section 80-6-306.

This entry was posted in [-Rules of Juvenile Procedure, URJP025A.](#)

« [Rules of Appellate Procedure – Comment Period Closed March 5, 2022](#)

[Rules of Evidence – Comment Period Closed February 26, 2022](#) »

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](#)
- [-Rules of Appellate Procedure](#)
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UTAH COURTS

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One thought on “[Rules of Juvenile Procedure – Comment Period Closed March 5, 2022](#)”

Steven Beck

January 27, 2022 at 10:48 am

I write to strongly urge the Committee on the Rules of Juvenile Procedure, or in the alternative, the Utah Supreme Court, to not repeal Rule 25A of the Utah Rules of Juvenile Procedure.

Article VIII, Section 4 of the Utah Constitution provides, in part, “The Supreme Court shall adopt rules of procedure and evidence to be used in the courts of the state....” In *Brown v. Cox*, 2017 UT 3, ¶17, 387 P.3d 1040, the Utah Supreme Court unanimously stated, “By the constitution’s plain language, the Legislature does not adopt rules of procedure and evidence; it amends the rules the supreme court creates.” The proposed repeal of Rule 25A does the exact opposite; it repeals a rule of procedure properly adopted by the Supreme Court in favor of a statute enacted by the Legislature. To be clear, this issue does not involve a situation where the Legislature has amended a rule of the Supreme Court, nor does it involve a debate about whether the rule is procedural or substantive. Rather, the explanation for the change states, “Rule 25A will be repealed because procedures governing the withdrawal of pleas are contained in Utah Code section 80-6-306.”

For these reasons, I strongly urge the Committee, or in the alternative, the Utah Supreme Court, to abandon the effort to repeal Rule 25A of the Utah Rules of Juvenile Procedure and any other effort to repeal or change a properly adopted rule of procedure in favor of a statute enacted by the Legislature.

- -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
- CJA10-01-0404
- CJA10-1-020
- CJA02-0101
- CJA02-0103
- CJA02-0104
- CJA02-0106.01
- CJA02-0106.02
- CJA02-0106.03
- CJA02-0106.04
- CJA02-0106.05
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- CJA03-0115
- CJA03-0116
- CJA03-0117
- CJA03-0201
- CJA03-0201.02
- CJA03-0202
- CJA03-0301
- CJA03-0301.01
- CJA03-0302
- CJA03-0303
- CJA03-0304
- CJA03-0304.01

TAB 3

1 **Rule 12. Admission to shelter care.**

2 Admission to shelter care is governed by Utah Code Title 80, Chapter 2a, Part 2, Utah
3 Code Title 62A, Chapter 4a, Part 2, Child Welfare Services and by Title 80, Chapter 3, Part
4 1, Abuse, Neglect, and Dependency Proceedings.

Rule 13. Shelter hearings.

(a) Shelter hearings shall be conducted in accordance with Utah Code sections 80-3-301 and 80-3-302.

(b) The Division of Child and Family Services shall file with the court at or before the shelter hearing a copy of the notice form required by Utah Code section ~~80-2a-203~~~~62A-4a-202.2~~ and the notice required by Utah Code section 80-3-301.

(c) At the beginning of the shelter hearing, the court shall advise all persons present of the information submitted to the court as a basis for the admission of the minor into shelter care and of the scope and purpose of the hearing.

(d) The court may receive any information, including hearsay and opinions, that is relevant to the issue of whether it is safe to release the minor to the parent, guardian or custodian. Privileged communications may be admitted only in accordance with the rules of evidence.

(e) If the parent, guardian, or custodian of the minor cannot be notified as provided in Utah Code section 80-3-301, a shelter hearing may be held without the minor's parent, guardian or custodian. Upon a finding that a continuance is necessary for the protection of the minor, for the accumulation or presentation of necessary evidence, to protect the rights of a party, or for other good cause, the court may continue the hearing in accordance with Utah Code section 80-3-301.

(f) If the minor is not released, the order for continued shelter shall be furnished to the agency responsible for shelter care of minors in the county. Orders for continued shelter care shall be of definite duration and may be extended upon review at a hearing in conformity with Utah Code section 80-3-301 and this rule.

(g) The release of the minor from shelter care may be requested by the court, a party, or any person interested in the minor at any time on the grounds that the conditions giving rise to the placement no longer exist or no longer justify continuing shelter. Such

- 27 request shall be considered by the court at a hearing in conformity with Utah Code
28 section 80-3-301 and this rule.

Rule 14. Reception of Referral; Preliminary Determination.**(a) Delinquency Cases.**

(1) A law enforcement officer or any other person having knowledge of or reason to believe facts that would bring a minor within the court's jurisdiction for delinquency may refer the minor to the court by submitting a written report, on forms prescribed by the court. The report shall indicate whether the alleged offense is a felony, misdemeanor, infraction, or status offense. An intake officer of the probation department shall make a preliminary determination, with the assistance of the prosecuting attorney if necessary, as to whether the minor qualifies for a nonjudicial adjustment. If the referral does not establish that the minor qualifies for a nonjudicial adjustment, the intake officer shall forward the referral to the prosecutor.

(b) **Cases Involving Neglect, Dependency or Abuse.** Pursuant to ~~Utah Code, Title 80, Chapter 2, Child Welfare Services~~Title 62A, Chapter 4a, complaints and reports involving the neglect, abuse or dependency of minors shall be directed to the nearest office of the Division of Child and Family Services for investigation, which agency may, with the assistance of the attorney general, file a petition with the court to initiate judicial proceedings.

(c) Coordination of Cases Pending in District Court and Juvenile Court.

(1) Criminal and delinquency cases; Notice to the court.

(A) In a criminal case all parties have a continuing duty to notify the court of a delinquency case pending in juvenile court in which the defendant is a party.

(B) In a delinquency case all parties have a continuing duty to notify the court:

(i) of a criminal or delinquency case in which the respondent or the respondent's parent is a party; and

28 (ii) of an abuse, neglect or dependency case in which the
29 respondent is the subject of the petition or the respondent's parent
30 is a party.

31 (C) The notice shall be filed with a party's initial pleading or as soon as
32 practicable after the party becomes aware of the other pending case. The
33 notice shall include the case caption, file number and name of the judge or
34 commissioner in the other case.

TAB 4

INDIGENT DEFENSE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions relating to indigent defense.

Highlighted Provisions:

This bill:

- modifies the definition of "indigent defense resource";
- modifies the definition of "indigent defense service provider";
- clarifies who a court may appoint to represent an indigent defendant;
- allows the Indigent Defense Commission to award grants for indigent defense services that are innovative for meeting or exceeding the commission's core principles regarding indigent defense services;
- clarifies who is eligible for appellate defense services; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-102, as last amended by Laws of Utah 2021, Chapters 228, 235, 262 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 262

78B-22-201, as last amended by Laws of Utah 2021, Chapter 262

78B-22-203, as enacted by Laws of Utah 2019, Chapter 326

78B-22-406, as last amended by Laws of Utah 2021, Chapters 228 and 262

78B-22-701, as renumbered and amended by Laws of Utah 2019, Chapter 326

78B-22-901, as enacted by Laws of Utah 2020, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-22-102** is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section **78B-22-405**.

(2) "Board" means the Indigent Defense Funds Board created in Section **78B-22-501**.

(3) "Commission" means the Utah Indigent Defense Commission created in Section **78B-22-401**.

(4) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination or Restoration of Parental Rights.

(5) "Executive Director" means the executive director of the Office of Indigent Defense Services, created in Section **78B-22-451**, who is appointed in accordance with Section **78B-22-453**.

(6) ~~[(a)]~~ "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual~~[, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.].~~

~~[(b)] "Indigent defense resources" does not include an indigent defense service provider.]~~

(7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual ~~[pursuant to]~~ through:

(a) a contract with an indigent defense system to provide indigent defense services; ~~[or]~~

(b) an order issued by the court under Subsection **78B-22-203(2)(a)**~~[-];~~ or

(c) direct employment with an indigent defense system.

(8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider;

and

(b) the provision of indigent defense resources for an indigent individual.

(9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection ~~[(9)]~~ (10)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(11) "Minor" means the same as that term is defined in Section 80-1-102.

(12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

(13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 2. Section 78B-22-201 is amended to read:

78B-22-201. Right to counsel.

(1) A court shall advise the following of the individual's right to counsel ~~[when the individual first appears before the court]~~ no later than the individual's first court appearance:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;

~~[(i)]~~ (ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

~~[(ii)]~~ (iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; [or]

~~[(iii) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;]~~

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Section 78B-6-112; or

~~[(i)]~~ (ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

~~[(ii) Section 78B-6-112; or]~~

(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Section 3. Section 78B-22-203 is amended to read:

78B-22-203. Order for indigent defense services.

(1) (a) A court shall appoint an indigent defense service provider who is employed by an indigent defense system or who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual ~~[as defined in Section 78B-22-102];~~ and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2) (a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system ~~only~~ if the court finds by clear and convincing evidence that:

(i) all ~~of~~ the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3) (a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of

the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) Except as provided in this section, a court may not order indigent defense services.

Section 4. Section **78B-22-406** is amended to read:

78B-22-406. Indigent defense services grant program.

(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in a county of the third, fourth, fifth, or sixth class.

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;

(b) to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;

(d) to provide training and continuing legal education for indigent defense service providers;

(e) to assist indigent defense systems with appeals from juvenile court proceedings;

(f) to pay for indigent defense resources and costs and expenses for parental representation attorneys as described in Subsection **78B-22-804(2)**; and

(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) (i) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals[-]; or

(ii) the indigent defense system shall use the grant in an innovative manner that meets the commission's core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Section 5. Section **78B-22-701** is amended to read:

78B-22-701. Establishment of Indigent Aggravated Murder Defense Trust Fund
-- Use of fund -- Compensation for indigent legal defense from fund.

(1) For purposes of this part, "fund" means the Indigent Aggravated Murder Defense Trust Fund.

(2) (a) There is established a private-purpose trust fund known as the "Indigent Aggravated Murder Defense Trust Fund."

(b) The Division of Finance shall disburse money from the fund at the direction of the board and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of ~~[an adequate]~~ a constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to represent an indigent individual, other than a state inmate in a state prison, prosecuted for aggravated murder in a participating county; and

(b) for administrative costs pursuant to Section [78B-22-501](#).

Section 6. Section **78B-22-901** is amended to read:

78B-22-901. Definitions.

(1) (a) "Appellate defense services" means the representation of an indigent individual ~~[facing]~~ described in Subsection [78B-22-201\(1\)\(d\)](#) or who is a party to an appeal under Section [77-18a-1](#).

(b) "Appellate defense services" does not include the representation of an indigent individual facing an appeal in a case where the indigent individual was prosecuted for aggravated murder.

(2) "Division" means the Indigent Appellate Defense Division created in Section [78B-22-902](#).

Rule 35. Pre-trial procedures.

(a) At the commencement of the initial pre-trial hearing, if the parent, guardian or custodian appears pro se, the court shall advise the parent, guardian or custodian of the right to the assistance of counsel at all stages of the proceeding including the right to apply to the court for the appointment of counsel if indigent. If appointment of counsel is requested, the court may proceed to examine the parent, guardian or custodian concerning eligibility for appointed counsel or the court may continue the pre-trial hearing and require the parent, guardian or custodian to file an affidavit or other evidence as deemed appropriate by the court for a determination as to eligibility for appointed counsel.

(b) If the parent, guardian or custodian waives the right to counsel and elects to proceed pro se, the court shall explain the nature of the action sought by the petitioner.

(c) Pursuant to Utah Code section 78A-2-803, the court shall appoint a guardian ad litem to represent any child named in a petition alleging child abuse, child sexual abuse, neglect, or dependency which results in a judicial proceeding.

(d) The court in its discretion or upon motion of a party may schedule further pre-trial hearings or conferences as may be necessary to expedite adjudication or disposition, consider discovery issues, formulate or simplify trial issues or facilitate possible settlement negotiations.

Effective September 1, 2021