



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

Meeting Agenda

David W. Fureigh, Chair

Location: Webex Meeting
Date: October 7, 2022
Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of September 2, 2022, meeting minutes	Tab 1	David Fureigh
Discussion & Action: Rule 6. Admission to detention without court order. <ul style="list-style-type: none">Amend Rule 6, as proposed by Judge Steven Beck. Committee members agreed to share the proposed amendments with members of the law enforcement community and solicit their input.	Tab 2	All
Discussion: URCP Rule 4 and URJP Rule 18. <ul style="list-style-type: none">Discuss amending URJP Rule 18 to include similar language related to a bilingual notice as included in Rule 4 of the Rules of Civil Procedure.	Tab 3	All
Discussion: Old business or new business		All

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

Meeting Schedule:

November 4, 2022

December 2, 2022

TAB 1



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

Draft Meeting Minutes

David W. Fureigh, Chair

Location: Webex Meeting

Date: September 2, 2022

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> David Fureigh, Chair Judge Paul Dame Judge Debra Jensen Mikelle Ostler Janette White Jordan Putnam Chris Yannelli Kristin Fadel Sophia Moore Matthew Johnson Carol Verdoia, Emeritus Member</p>	<p><u>Excused Members:</u> William Russell Arek Butler Michelle Jeffs</p>
<p><u>Staff:</u> Raymundo Gallardo Kiley Tilby, Recording Secretary Savannah Schoon, Juvenile Court Law Clerk</p>	

1. Welcome and approval of the June 3, 2022 Meeting Minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and announced that the Supreme Court has appointed committee member and GAL Attorney Matthew Johnson as co-chair to the committee. Mr. Fureigh asked for approval of the June 3, 2022 Minutes. Judge Jensen moved to approve the June 3, 2022 Minutes. Janette White seconded the motion, and it passed unanimously.

2. Discussion & Action - Rule 25A. Withdrawal of plea: (All)

David Fureigh indicated the committee previously made some amendments to Rule 25A and it was sent for public comment. No comments were received. Judge Dame suggested changing line 8 and 9 of the amended rule to stated, "If the court has not imposed dispositional orders, such order shall not be announced unless the motion to withdraw is denied." Matthew Johnson asked if the proposed language change by Judge Dame would require the rule to be sent back out for public comment. Mr. Fureigh indicated he did not believe it will have to be sent out again and agreed with the proposed change. Judge Dame motioned the committee to approve the amendment. Matthew Johnson seconded the motion. The committee approved the amendment and the motion carried.

David Fureigh indicated he needs a motion to submit the amended rule to the Supreme Court for final publication. Judge Dame motioned to send it to the Supreme Court and Judge Jensen seconded the motion. The motion carried.

3. Discussion & Action - Rule 22. Initial appearance and preliminary examination in cases under Utah Code section 80-6-503: (All)

David Fureigh stated Rule 22 was set over for additional discussion. The proposal would be to change the language in the rule to reflect the most current terminology of "preliminary hearing" in lieu of "preliminary examination." Judge Dame indicated the related statute also uses the language of "preliminary hearing."

Mr. Fureigh also states section (g) of Rule 22 was brought to the committee attention due to confusing language as currently written. The proposal would be to change the rule to indicate a preliminary hearing would be 10 days for in-custody cases, and 30 days for out of custody cases, with the ability to extend those time periods for good cause.

Judge Dame proposed "ten" in line 36 should be numerical instead of spelled out. Judge Dame inquired if the time frames for preliminary hearing should be consistent with adult preliminary hearings (14 days for in-custody and 28 days for

out of custody). The committee discussed the time frames and determined the 10 days and 30 days were likely expedited due to the individuals being juveniles.

The committee then had a lengthy discussion about Utah Code sections 80-6-503 and 80-6-504 and the requirements outlined in each statute. The committee agreed Utah Code section 80-6-503 should remain in the title of the rule but should be stricken in section (g).

Judge Jensen addressed the language in section (h) as it relates to the “factors” outlined in Utah Code section 80-6-503. Judge Jensen stated there are no “factors” within the statute and the language in the rule is confusing. Sophia Moore agreed the language is confusing and believes it needs to be clarified. The committee discussed whether Rule 22 was dealing with all initial appearances, or only those filed by Information. Sophia Moore stated Rule 24 deals with arraignments when an Information is not filed. Judge Jensen proposed section (h) be changed from referencing section 80-6-503 to instead reference 80-6-504. Chris Yannelli agreed.

Raymundo Gallardo stated Utah Code section 80-6-503 was referenced throughout the rule in other places and inquired if those references need to be removed. Chris Yannelli stated he believes the reference to section 80-6-503 in (h) and (j) is appropriate. The committee agreed.

Sophia Moore stated section (j) is misleading because there are now two factors outlined in Utah Code section 80-6-504(2). The statute still requires probable cause, but the statute now includes a second burden of showing “by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.” Sophia Moore proposed that section (j) in Rule 22 should either refer to the statute or take out the statute and put in both factors.

Judge Jensen agreed and proposed the following language to (j), “If from the evidence the court finds probable cause under Utah Code section 80-6-504, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.” Sophia Moore and Chris Yannelli agreed to the proposed change.

Chris Yannelli motioned the committee to approve the rule as amended and that it be sent to the Supreme Court for approval for public comment. Sophia Moore seconded. The motion carried.

4. Discussion – S.B. 85: Protective Order and Stalking Injunction Expungement:
(Michael Drechsel; Daniel Meza-Rincon)

David Fureigh represented there was some confusion within S.B. 85 and indicated S.B. 85 allows an individual to petition the court to expunge an ex parte protective order or protective order. At a previous committee meeting, the committee addressed the issue and Jordan Putnam did not feel like any amendments were needed based on the statute. The committee had some discussion that the expungement statute specifically excluded DCFS records. However, Mr. Fureigh indicated the expungement statute does apply to juvenile court records, but still agrees there are no amendments that need to be made to the juvenile rules. Mr. Fureigh expressed concern that if the committee attempted to develop a rule, it may be contrary to the statute because the statute specifically references the Utah Rules of Civil Procedure, which differ from the Utah Rules of Juvenile Procedure.

Daniel Meza-Rincon agreed with Mr. Fureigh that there is not a need for a rule to be developed in the juvenile rules. However, Mr. Meza-Rincon wanted to ensure the committee understood that S.B. 85 does apply to juvenile courts and juvenile court records, even if DCFS records are excluded.

Carol Verdoia stated line 62 and 63 in S.B. 85 which refers to the Utah Rules of Civil Procedure is very confusing because it makes it sound like the statute does not apply to juvenile court. Ms. Verdoia does not believe the committee needs to develop a rule because she fears it will make it more confusing but suggested perhaps the legislature could amend the statute to clarify.

Judge Jensen expressed concern that the rules, specifically as it relates to service, differ between the juvenile rules and the Utah Rules of Civil Procedure. Judge Jensen indicated the court clerks are also confused about how to implement S.B. 85 and the clerks may need some direction on how S.B. 85 is to be implemented in juvenile court. Matthew Johnson stated there are also no provisions that refer to the guardian ad litem, or whether a guardian ad litem should be appointed.

The committee then had a lengthy discussion about whether S.B. 85 was applicable to juvenile court records. Jordan Putman indicated it seemed that S.B. 85 was only applicable to adult protective orders or civil stalking injunctions in district court. Judge Dame believes “ex parte civil protective order” includes child protective orders when you look at Utah Code section 78B-7-102(3) and (12). Carol Verdoia expressed concern that there was not a cross-reference to those sections and the language in S.B. 85 specifically states it defines civil order for purposes of “this part.” Ms. Verdoia did not know if the statute intended for those other statutes be looked at.

Michael Drechsel joined the committee discussion and stated he believes the drafter of the statute and Senator Todd Weiler intended to leverage the existing definitions from the general definitions of the protective order statutes. Ms. Verdoia expressed concern that the statute may be confusing to implement if the rules of services of process are different in juvenile court. Mr. Drechsel responded

that when you look at the juvenile rules, they reference Rule 4 of the Utah Rules of Civil Procedure which is why the drafter of the bill felt comfortable just referencing the Utah Rules of Civil Procedure. Judge Dame stated the rules differentiate between service of process and service of pleadings or other papers. Judge Dame does not believe there is a conflict in the service of process.

Judge Jensen indicated there was a larger issue because Rule 4 has discrepancies between the juvenile rules and Judge Jensen had been asked to bring it to the attention of the committee to create their own service rule due to those issues.

Judge Jensen inquired if the legislature would be willing to make a few changes to the statute to reflect the concerns outlined. Michael Drechsel stated that the juvenile court may not see a lot of expungement petitions for child protective orders because there is not public access to CARE documents or juvenile court records. However, Mr. Drechsel indicated the concerns could be addressed.

David Fureigh expressed concern with created a juvenile rule to address expungement petitions due to potentially conflicting with the statute. In order for the committee to develop a rule that would not be in conflict, the statute would need to be amended to include clear language that references both the Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure. Judge Dame stated he does not think a new rule would be beneficial as it would be contradictory to the statute. Mikelle Ostler stated the statute needs to be cleaned up first and there needs to be guidance on how to process the expungement petitions.

Jacqueline Carlton will reach out to Senator Weiler and make the legislative committee aware of the concerns outlined. The committee will wait to determine how to move forward.

5. Discussion & Action - Rule 6. Admission to detention without court order: (All)

David Fureigh stated Judge Beck had petitioned the committee to consider amending Rule 6 to include a requirement in the form used to admit minors into detention to include a declaration statement. Judge Beck proposed a statement should be included on the JJS form that everything contained in the form is true and correct and that 1) alternatives to detention have been considered; and 2) the reasons for detention are free from bias. Mr. Fureigh outlined that nothing is required in the form at this time. Janette White contacted Molly McDonald, the attorney for JJYS, and she did not have an objection to the language. However, Ms. McDonald stated it is law enforcement that has to sign the form declaring the information, not JJYS.

Janette White indicated JJYS understands if the change to the rule is passed, they will need to change their form. Ms. White stated there has been a big push to try to address bias and this is something the committee can do to help address it. The

proposed change to the rule will require conscious thought from law enforcement when children are being checked into detention.

Matthew Johnson expressed concern with the language “alternatives to detention have been considered.” Chris Yannelli stated most law enforcement officers already outlined in their report why the child was taken to detention, which denotes they considered alternatives based on the safety. Mr. Yannelli indicated he does not like the language “reason the minor was not released” and believes it should instead state “reason the minor was brought to detention.” Mr. Yannelli stated released has a larger meaning.

The committee discussed making the language in the rule to be consistent with the statute. The committee proposed the language be changed to “...the reason the minor was taken to a detention facility is free from bias.”

Janette White proposed the committee get feedback from law enforcement and prosecutors. Ms. White expressed concern the language may be setting law enforcement up for liability. The committee discussed whether the proposed language could be sent out for comment, while simultaneously sending it to law enforcement and getting their input. Mr. Fureigh stated the Supreme Court may want input from law enforcement or other agencies this rule would affect before sending it out for public comment as they have wanted input from other entities with past rule changes.

Judge Dame proposed the language should be changed to “...and the reason I took the minor to a detention facility is free from bias.” Judge Dame requested the change to make it clear the actual officer who took the child to the detention facility was free from bias, and not a third party. David Fureigh stated he could see a situation where other individuals were involved in making the decision to take the child to a detention facility. The committee discussed other officer involvement and whether another officer may be making the decision.

With the concerns outlined, David Fureigh stated it may be appropriate to get input from law enforcement before sending it out for comment. Law enforcement may have other scenarios where they may have an issue with the proposed language and the practicality of it. The matter will be put on next month’s agenda for the committee to get input from agencies the proposed rule will affect.

6. Discussion – URCP Rule 4 and URJP Rule 18: (All)

The committee did not have time to address this agenda item. This will be placed on the agenda for the next committee meeting.

7. Old business/new business: (All)

No old or new business was discussed.

The meeting adjourned at 2:00 PM. The next meeting will be held on October 7, 2022 at 12:00 PM via Webex.

TAB 2

Petition to Amend Rule 6 of the Utah Rules of Juvenile Procedure

This petition is submitted pursuant to Rule 11-102(1) of the Utah Judicial Council Code of Judicial Administration

Proposed revisions:

Rule 6. Admission to detention without court order.

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

(b) The form described in Utah Code section 80-6-203 must contain the following language above the signature line: "Pursuant to Utah Code section 78B-18a-104, I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge, that alternatives to detention have been considered, and that the reason the minor was not released is free from bias."

Rationale:

It is likely unconstitutional for an individual, including a minor, to be detained without a sworn probable cause statement. (See attached memorandum). Nevertheless, current procedure in Utah juvenile courts does not require a sworn statement. By adding the language in paragraph (b), the probable cause statement becomes a sworn declaration pursuant to Utah Code section 78B-18a-104 (this is the same or similar language that is contained on delinquency petitions generated through CARE).

The addition of the language "...that alternatives to detention have been considered..." relates to the requirement in Utah Code section 80-6-203(3)(c)(iii) that the form state the reason the minor was not released by the peace officer since it encourages reflection about alternatives to detention.

The addition of the language "...and that the reason the minor was not released is free from bias" addresses both Utah Code section 80-6-203(3)(c)(iii) and the problem of disproportionality in the detention rates of youth of color in Utah. Data show that youth of color are detained at a higher rate than white youth. In 2019, youth of color constituted 50.9% of the population in detention in Utah despite only representing 25.8% of the school-aged youth population. *Striving for Equity in Utah's Juvenile Justice System*, p. 26. In other words, youth of color are detained at a rate of approximately twice their proportion of the population. Often, juvenile court professionals lament disproportionality but argue they can only address the cases brought to them. Without conceding that point, and while it certainly will not eliminate the problem of disproportionality in detention rates, the proposed language is a very small step in the right direction to ensure that reasons for detaining youth are free from bias.

This petition received the unanimous endorsement of the Utah Board of Juvenile Court Judges at its meeting on April 8, 2022.

Thank you for your consideration,

Steven Beck (jbeck@utcourts.gov)

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9 that the reason the minor was taken to a detention facility is free from bias."

TAB 3

1 Rule 4. Process.

2 (a) Signing of summons. The summons must be signed and issued by the plaintiff or the
3 plaintiff's attorney. Separate summonses may be signed and issued.

4 (b) Time of service. Unless the summons and complaint are accepted, a copy of the
5 summons and complaint in an action commenced under Rule [3\(a\)\(1\)](#) must be served no
6 later than 120 days after the complaint is filed, unless the court orders a different period
7 under Rule 6. If the summons and complaint are not timely served, the action against the
8 unserved defendant may be dismissed without prejudice on motion of any party or on
9 the court's own initiative.

10 (c) Contents of summons.

11 (1) The summons must:

12 (A) contain the name and address of the court, the names of the parties to
13 the action, and the county in which it is brought;

14 (B) be directed to the defendant;

15 (C) state the name, address and telephone number of the plaintiff's attorney,
16 if any, and otherwise the plaintiff's address and telephone number;

17 (D) state the time within which the defendant is required to answer the
18 complaint in writing;

19 (E) notify the defendant that in case of failure to answer in writing,
20 judgment by default will be entered against the defendant;

21 (F) state either that the complaint is on file with the court or that the
22 complaint will be filed with the court within 10 days after service; and

23 (G) include the bilingual notice set forth in the form summons approved by
24 the Utah Judicial Council.

25 (2) If the action is commenced under Rule [3\(a\)\(2\)](#), the summons must also:

26 (A) state that the defendant need not answer if the complaint is not filed
27 within 10 days after service; and

28 (B) state the telephone number of the clerk of the court where the defendant
29 may call at least 14 days after service to determine if the complaint has been
30 filed.

31 (3) If service is by publication, the summons must also briefly state the subject
32 matter and the sum of money or other relief demanded, and that the complaint is
33 on file with the court.

34 (d) Methods of service. The summons and complaint may be served in any state or
35 judicial district of the United States. Unless service is accepted, service of the summons
36 and complaint must be by one of the following methods:

37 (1) Personal service. The summons and complaint may be served by any person 18
38 years of age or older at the time of service and not a party to the action or a party's
39 attorney. If the person to be served refuses to accept a copy of the summons and
40 complaint, service is sufficient if the person serving them states the name of the
41 process and offers to deliver them. Personal service must be made as follows:

42 (A) Upon any individual other than one covered by paragraphs (d)(1)(B),
43 (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint
44 to the individual personally, or by leaving them at the individual's dwelling
45 house or usual place of abode with a person of suitable age and discretion
46 who resides there, or by delivering them to an agent authorized by
47 appointment or by law to receive process;

48 (B) Upon a minor under 14 years old by delivering a copy of the summons
49 and complaint to a parent or guardian of the minor or, if none can be found
50 within the state, then to any person having the care and control of the
51 minor, or with whom the minor resides, or by whom the minor is
52 employed;

53 (C) Upon an individual judicially declared to be incapacitated, of unsound
54 mind, or incapable of conducting the individual's own affairs, by delivering
55 a copy of the summons and complaint to the individual and to the guardian
56 or conservator of the individual if one has been appointed; the individual's
57 legal representative if one has been appointed, and, in the absence of a
58 guardian, conservator, or legal representative, to the person, if any, who
59 has care, custody, or control of the individual;

60 (D) Upon an individual incarcerated or committed at a facility operated by
61 the state or any of its political subdivisions, by delivering a copy of the
62 summons and complaint to the person who has the care, custody, or control
63 of the individual, or to that person's designee or to the guardian or
64 conservator of the individual if one has been appointed. The person to
65 whom the summons and complaint are delivered must promptly deliver
66 them to the individual;

67 (E) Upon a corporation not otherwise provided for in this rule, a limited
68 liability company, a partnership, or an unincorporated association subject
69 to suit under a common name, by delivering a copy of the summons and
70 complaint to an officer, a managing or general agent, or other agent
71 authorized by appointment or law to receive process and by also mailing a
72 copy of the summons and complaint to the defendant, if the agent is one
73 authorized by statute to receive process and the statute so requires. If no
74 officer or agent can be found within the state, and the defendant has, or
75 advertises or holds itself out as having, a place of business within the state
76 or elsewhere, or does business within this state or elsewhere, then upon the
77 person in charge of the place of business;

78 (F) Upon an incorporated city or town, by delivering a copy of the summons
79 and complaint as required by statute, or in the absence of a controlling
80 statute, to the recorder;

81 (G) Upon a county, by delivering a copy of the summons and complaint as
82 required by statute, or in the absence of a controlling statute, to the county
83 clerk;

84 (H) Upon a school district or board of education, by delivering a copy of the
85 summons and complaint as required by statute, or in the absence of a
86 controlling statute, to the superintendent or administrator of the board;

87 (I) Upon an irrigation or drainage district, by delivering a copy of the
88 summons and complaint as required by statute, or in the absence of a
89 controlling statute, to the president or secretary of its board;

90 (J) Upon the state of Utah or its department or agency by delivering a copy
91 of the summons and complaint to the attorney general and any other person
92 or agency required by statute to be served; and

93 (K) Upon a public board, commission or body by delivering a copy of the
94 summons and complaint as required by statute, or in the absence of a
95 controlling statute, to any member of its governing board, or to its executive
96 employee or secretary.

97 (2) Service by mail or commercial courier service.

98 (A) The summons and complaint may be served upon an individual other
99 than one covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial
100 courier service in any state or judicial district of the United States provided
101 the defendant signs a document indicating receipt.

102 (B) The summons and complaint may be served upon an entity covered by
103 paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service
104 in any state or judicial district of the United States provided defendant's
105 agent authorized by appointment or by law to receive service of process
106 signs a document indicating receipt.

107 (C) Service by mail or commercial courier service shall be complete on the
108 date the receipt is signed as provided by this rule.

109 (3) Acceptance of service.

110 (A) Duty to avoid expenses. All parties have a duty to avoid unnecessary
111 expenses of serving the summons and complaint.

112 (B) Acceptance of service by party. Unless the person to be served is a minor
113 under 14 years old or an individual judicially declared to be incapacitated,
114 of unsound mind, or incapable of conducting the individual's own affairs,
115 a party may accept service of a summons and complaint by signing a
116 document that acknowledges receipt of the summons and complaint.

117 (i) Content of proof of electronic acceptance. If acceptance is
118 obtained electronically, the proof of acceptance must demonstrate on
119 its face that the electronic signature is attributable to the party
120 accepting service and was voluntarily executed by the party. The
121 proof of acceptance must demonstrate that the party received
122 readable copies of the summons and complaint prior to signing the
123 acceptance of service.

124 (ii) Duty to avoid deception. A request to accept service must not be
125 deceptive, including stating or implying that the request to accept
126 service originates with a public servant, peace officer, court, or
127 official government agency. A violation of this paragraph may
128 nullify the acceptance of service and could subject the person to
129 criminal penalties under applicable Utah law.

130 (C) Acceptance of service by attorney for party. An attorney may accept
131 service of a summons and complaint on behalf of the attorney's client by
132 signing a document that acknowledges receipt of the summons and
133 complaint.

134 (D) Effect of acceptance, proof of acceptance. A person who accepts service
135 of the summons and complaint retains all defenses and objections, except
136 for adequacy of service. Service is effective on the date of the acceptance.
137 Filing the acceptance of service with the court constitutes proof of service
138 under Rule 4(e).

139 (4) Service in a foreign country. Service in a foreign country must be made as
140 follows:

141 (A) by any internationally agreed means reasonably calculated to give
142 notice, such as those means authorized by the Hague Convention on the
143 Service Abroad of Judicial and Extrajudicial Documents;

144 (B) if there is no internationally agreed means of service or the applicable
145 international agreement allows other means of service, provided that
146 service is reasonably calculated to give notice:

147 (i) in the manner prescribed by the law of the foreign country for
148 service in that country in an action in any of its courts of general
149 jurisdiction;

150 (ii) as directed by the foreign authority in response to a letter of
151 request issued by the court; or

152 (iii) unless prohibited by the law of the foreign country, by
153 delivering a copy of the summons and complaint to the individual
154 personally or by any form of mail requiring a signed receipt,
155 addressed and dispatched by the clerk of the court to the party to be
156 served; or

157 (C) by other means not prohibited by international agreement as may be
158 directed by the court.

159 (5) Other service.

160 (A) If the identity or whereabouts of the person to be served are unknown
161 and cannot be ascertained through reasonable diligence, if service upon all
162 of the individual parties is impracticable under the circumstances, or if
163 there is good cause to believe that the person to be served is avoiding
164 service, the party seeking service may file a motion to allow service by some
165 other means. An affidavit or declaration supporting the motion must set
166 forth the efforts made to identify, locate, and serve the party, or the
167 circumstances that make it impracticable to serve all of the individual
168 parties.

169 (B) If the motion is granted, the court will order service of the complaint
170 and summons by means reasonably calculated, under all the circumstances,
171 to apprise the named parties of the action. The court's order must specify
172 the content of the process to be served and the event upon which service is
173 complete. Unless service is by publication, a copy of the court's order must
174 be served with the process specified by the court.

175 (C) If the summons is required to be published, the court, upon the request
176 of the party applying for service by other means, must designate a
177 newspaper of general circulation in the county in which publication is
178 required.

179 (e) Proof of service.

180 (1) The person effecting service must file proof of service stating the date, place,
181 and manner of service, including a copy of the summons. If service is made by a
182 person other than by an attorney, sheriff, constable, United States Marshal, or by
183 the sheriff's, constable's or marshal's deputy, the proof of service must be by
184 affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform
185 Unsworn Declarations Act.

186 (2) Proof of service in a foreign country must be made as prescribed in these rules
187 for service within this state, or by the law of the foreign country, or by order of the
188 court.

189 (3) When service is made pursuant to paragraph(d)(4)(C), proof of service must
190 include a receipt signed by the addressee or other evidence of delivery to the
191 addressee satisfactory to the court.

192 (4) Failure to file proof of service does not affect the validity of the service. The
193 court may allow proof of service to be amended.

194

1 **Rule 18. Summons; service of process; notice.**

2 (a) **Summons.** Upon the filing of a petition, the clerk, unless otherwise directed by the
3 court, shall schedule an initial hearing in the case.

4 (1) Summons may be issued by the petitioning attorney. If the petitioning attorney
5 does not issue a summons, summons shall be issued by the clerk in accordance
6 with Utah Code section 78A-6-351. The summons shall conform to the format
7 prescribed by these rules.

8 (2) Content of the summons.

9 (A) Abuse, neglect, and dependency cases. The summons shall contain the
10 name and address of the court, the title of the proceeding, the type of
11 hearing scheduled, and the date, place and time of the hearing. It shall state
12 the time within which the respondent is required to answer the petition,
13 and shall notify the respondent that in the case of the failure to do so,
14 judgment by default may be rendered against the respondent. It shall also
15 contain an abbreviated reference to the substance of the petition.

16 (B) Other cases. The summons shall contain the name and address of the
17 court, the title of the proceeding, the type of hearing scheduled, and the
18 date, place and time of the hearing. It shall also contain an abbreviated
19 reference to the substance of the petition. In proceedings against an adult
20 pursuant to Utah Code section 78A-6-450, the summons shall conform to
21 the Utah Rules of Criminal Procedure and be issued by the prosecuting
22 attorney.

23 (3) The summons shall be directed to the person or persons who have physical
24 care, control or custody of the minor and require them to appear and bring the
25 minor before the court. If the person so summoned is not the parent, guardian, or
26 custodian of the minor, a summons shall also be issued to the parent, guardian, or
27 custodian. If the minor or person who is the subject of the petition has been

28 emancipated by marriage or is 18 years of age or older at the time the petition is
29 filed, the summons may require the appearance of the minor only, unless
30 otherwise ordered by the court. In neglect, abuse and dependency cases, unless
31 otherwise directed by the court, the summons shall not require the appearance of
32 the subject minor.

33 (4) No summons shall be necessary as to any party who appears voluntarily or
34 who files a written waiver of service with the clerk prior to or upon appearance at
35 the hearing.

36 **(b) Service.**

37 (1) Except as otherwise provided by these rules or by statute, service of process
38 and proof of service shall be made by the methods provided in Rule 4 of Utah
39 Rules of Civil Procedure. Service of process shall be made by the sheriff of the
40 county where the service is to be made, by a deputy, by a process server, or by any
41 other suitable person appointed by the court. However, when the court so directs,
42 an agent of the Department of Human Services may serve process in a case in
43 which the Department is a party. A party or party's attorney may serve another
44 party at a court hearing. The record of the proceeding shall reflect the service of
45 the document and shall constitute the proof of service.

46 (2) Personal service may be made upon a parent, guardian, or custodian and upon
47 a minor in that person's legal custody by delivering to a parent, guardian, or
48 custodian a copy of the summons with a copy of the petition attached. If a minor
49 is in the legal custody or guardianship of an agency or person other than a parent,
50 service shall also be made by delivering to the legal custodian a copy of the
51 summons with a copy of the petition attached and notice shall be given to the
52 parent as provided in paragraph (d). Service upon a minor who has attained
53 majority by marriage as provided in Utah Code Section 15-2-1 or upon court order
54 shall be made in the manner provided in the Utah Rules of Civil Procedure.

55 (3) Service may be made by any form of mail requiring a signed receipt by the
56 addressee. Service is complete upon return to court of the signed receipt. Service of
57 process may be made by depositing a copy thereof in the United States mail
58 addressed to the last known address of the person to be served. Any person who
59 appears in court in response to mailed service shall be considered to have been
60 legally served.

61 (4) In any proceeding wherein the parent, guardian, or custodian cannot after the
62 exercise of reasonable diligence be located for personal service, the court may
63 proceed to adjudicate the matter subject to the right of the parent, guardian or
64 custodian to a rehearing, except that in certification proceedings brought pursuant
65 to Title 80, Chapter 6, Part 5, Transfer to District Court and in proceedings seeking
66 permanent termination of parental rights, the court shall order service upon the
67 parent, guardian, or custodian by publication. Any rehearing shall be requested by
68 written motion.

69 (5) Service shall be completed at least 48 hours prior to the adjudicatory hearing. If
70 the summons is for the permanent termination of parental rights, service shall be
71 completed at least ten days before the adjudicatory hearing. If the summons is for
72 a substantiation proceeding, service shall be completed at least forty-five days
73 before the adjudicatory hearing.

74 (c) **Service by publication.** Service by publication shall be authorized by the procedure
75 and in the form provided by the Utah Juvenile Code and Rule 4 of Utah Rules of Civil
76 Procedure except that within the caption and the body of any published document,
77 children shall be identified by their initials and respective birth dates, and not by their
78 names. The parent, guardian, or custodian of each child shall be identified as such using
79 their full names within the caption of any published document.

80 (d) **Notice.**

81 (1) Notice of the time, date and place of any further proceedings, after an initial
82 appearance or service of summons, may be given in open court or by mail to any
83 party. Notice shall be sufficient if the clerk deposits the notice in the United States
84 mail, postage pre-paid, to the address provided by the party in court or the address
85 at which the party was initially served, or, if the party has agreed to accept service
86 by email, sends notice to the email address provided by the party.

87 (2) Notice for any party represented by counsel shall be given to counsel for the
88 party through either mail, notice given in open court, or by email to the email
89 address on file with the Utah State Bar.

90 (e) **Additional parties.** Whenever it appears to the court that a person who is not the
91 parent, guardian or custodian should be made subject to the jurisdiction and authority of
92 the court in a minor's case, upon the motion of any party or the court's own motion, the
93 court may issue a summons ordering such person to appear. Upon the appearance of
94 such person, the court may enter an order making such person a party to the proceeding
95 and may order such person to comply with reasonable conditions as a part of the
96 disposition in the minor's case. Upon the request of such person, the court shall conduct
97 a hearing upon the issue of whether such person should be made a party.

98 (f) **Service of pleadings and other papers.** Except as otherwise provided by these rules
99 or by statute, service of pleadings and other papers not requiring a summons shall be
100 made by the methods provided in Rule 5 of Utah Rules of Civil Procedure, except that
101 service to the email address on file with the Utah State Bar is sufficient service to an
102 attorney under this rule, whether or not an attorney agrees to accept service by email.

103 (g) Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for
104 eFiling documents does not constitute an electronic filing account as referenced in the
105 Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

106 *Effective September 1, 2021.*

A lawsuit has been filed against you. You must respond in writing by the deadline for the court to consider your side. The written response is called an Answer.

Deadline!

Your Answer must be filed with the court and served on the other party **within 21 days** of the date you were served with this Summons.

If you do not file and serve your Answer by the deadline, the other party can ask the court for a default judgment. A default judgment means the other party can get what they asked for, and you do not get the chance to tell your side of the story.

Read the complaint/petition

The Complaint or Petition has been filed with the court and explains what the other party is asking for in their lawsuit. Read it carefully.

Answer the complaint/petition

You must file your Answer in writing with the court **within 21 days** of the date you were served with this Summons. You can find an Answer form on the court's website: utcourts.gov/ans



Scan QR code to visit page

Se ha presentado una demanda en su contra. Si desea que el juez considere su lado, deberá presentar una respuesta por escrito dentro del periodo de tiempo establecido. La respuesta por escrito es conocida como la Respuesta.

¡Fecha límite para contestar!

Su Respuesta debe ser presentada en el tribunal y también con la debida entrega formal a la otra parte **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citatorio.

Si usted no presenta una respuesta ni hace la entrega formal dentro del plazo establecido, la otra parte podrá pedirle al juez que asiente un fallo por incumplimiento. Un fallo por incumplimiento significa que la otra parte recibe lo que pidió, y usted no tendrá la oportunidad de decir su versión de los hechos.

Lea la demanda o petición

La demanda o petición fue presentada en el tribunal y ésta explica lo que la otra parte pide. Léala cuidadosamente.

Cómo responder a la demanda o petición

Usted debe presentar su Respuesta por escrito en el tribunal **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citatorio. Puede encontrar el formulario para la presentación de la Respuesta en la página del tribunal: utcourts.gov/ans-span



Para acceder esta página escanee el código QR

Serve the Answer on the other party

You must email, mail or hand deliver a copy of your Answer to the other party (or their attorney or licensed paralegal practitioner, if they have one) at the address shown at the top left corner of the first page of this Summons.

Finding help

The court's Finding Legal Help web page (utcourts.gov/help) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.



Scan QR code to visit page

Entrega formal de la respuesta a la otra parte

Usted deberá enviar por correo electrónico, correo o entregar personalmente una copia de su Respuesta a la otra parte (o a su abogado o asistente legal, si tiene) a la dirección localizada en la esquina izquierda superior de la primera hoja del citatorio.

Cómo encontrar ayuda legal

Para información sobre maneras de obtener ayuda legal, vea nuestra página de Internet Cómo Encontrar Ayuda Legal. (utcourts.gov/help-span) Algunas maneras de obtener ayuda legal son por medio de una visita a un taller jurídico gratuito, o mediante el Centro de Ayuda. También hay ayuda legal a precios de descuento y consejo legal breve.



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قم بالمسح الضوئي للرمز لزيارة الصفحة

An Arabic version of this document is available on the court's website:

نسخة عربية من هذه الوثيقة على موقع المحكمة على الإنترنت: توجد

utcourts.gov/arabic

A Simplified Chinese version of this document is available on the court's website:

本文件的简体中文版可在法院网站上找到：

utcourts.gov/chinese



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Một bản tiếng Việt của tài liệu này có sẵn trên trang web của tòa:

utcourts.gov/viet



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