

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

Meeting Agenda

David W. Fureigh, Chair

Location: Webex Meeting

Date: December 2, 2022

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of November 4, 2022, meeting minutes.	Tab 1	David Fureigh
Discussion: Rules of Evidence and Rules of Juvenile Procedure. <ul style="list-style-type: none"><i>Judge Michael Leavitt and committee members will continue a discussion regarding the intersection of the Rules of Evidence and the Rules of Juvenile Procedure.</i>	Tab 2	Judge Michael Leavitt All
Discussion & Action: Rule 6. Admission to detention without court order. <ul style="list-style-type: none"><i>Amend Rule 6 as proposed by Judge Steven Beck and as further amended by the group. Committee members agreed to share the proposed amendments with members of the law enforcement community and solicit their input.</i>	Tab 3	All
Discussion & Action: URJP Rule 18. Summons; service of process; notice. <ul style="list-style-type: none"><i>Judge Paul Dame and attorney Sophia Moore will present proposed amendments to Rule 18 regarding the inclusion of a bilingual notice in a juvenile court summons. In addition, the committee will review examples of a juvenile court summons.</i>	Tab 4	Judge Paul Dame Sophia Moore

Discussion & Action: Rule 29C. Victim restitution orders. <ul style="list-style-type: none"> Committee member Bill Russell proposes a new rule to address the variety of ways juvenile courts are addressing victim restitution claims and orders. Mr. Russell's proposed rule seeks to provide a mechanism for courts and parties to consistently and fairly resolve restitution matters in the courtroom. 	Tab 5	Bill Russell
Discussion: Old business or new business		All

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

Meeting Schedule:

December 2, 2022

March 3, 2023

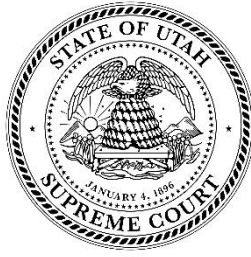
January 6, 2023

April 7, 2023

February 3, 2023

May 5, 2023

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: November 4, 2022

Time: 12:00 p.m. – 2:00 p.m.

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

1. Welcome and approval of the October 7, 2022 Meeting Minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and introduced the guests, Cade Stubbs and Judge Leavitt. Mr. Stubbs is a clerk for the 5th district court and is filling in for Mikelle Ostler. Judge Leavitt is a member of the Rules of Evidence committee and is present to discuss the first agenda item.

Mr. Fureigh announced that the two law clerks from the AOC are leaving. Mr. Fureigh indicated that the law clerks have participated in the committee and helped in research and do a lot of work behind the scenes. Mr. Fureigh thanked them for all they have done for the committee. Mr. Fureigh indicated the AOC is planning on hiring additional law clerks, but if any research projects come up before they are hired, the research will fall back on the committee and the committee resources.

Mr. Fureigh then asked for approval of the October 7, 2022, meeting minutes. Judge Jensen moves to approve the minutes. Matthew Johnson seconded the motion, and it passed unanimously.

2. Discussion – Rules of Evidence and Rules of Juvenile Procedure: (Judge Leavitt)

David Fureigh stated the Rules of Evidence committee has proposed changes to the Rules of Evidence to eliminate any reference to juvenile courts throughout the Rules of Evidence. Judge Leavitt is a member of the Rules of Evidence committee and asked to attend the meeting to discuss the changes and get feedback from the Rules of Juvenile Procedure committee.

Judge Leavitt first expressed gratitude to the committee for their work to ensure procedures are clear and fair. Judge Leavitt indicated he became a member of the Rules of Evidence committee in March. At that time, an amendment had been proposed to Rule 412 of the Rules of Evidence to add that the rule was applicable to juvenile delinquency proceedings. The amendment went out for comment and became effective on November 1, 2022. Judge Leavitt stated the amendment brought up an important issue of whether the Rules of Evidence committee needed to clarify how the rules of evidence apply in juvenile court proceedings.

Judge Leavitt stated he began to research the issue and indicated there are only two rules in the Utah Rules of Evidence that specifically reference juvenile court proceedings – Rule 412 and Rule 615(e). Judge Leavitt further stated Rule 1101 of the Utah Rules of Evidence doesn't specifically reference juvenile court proceedings, but indicates the rules apply to all actions unless otherwise provided in subsections (c) and (d). Judge Leavitt would propose that all references to juvenile court proceedings outlined in the Rules of Evidence be removed, and that Rule 1101 and possibly Rule 101 be amended to include the applicability in

juvenile court proceedings. The Rules of Juvenile Procedure committee would then be left with the authority under Rule 43 of the Rules of Juvenile Procedure to make whatever specific references to the Rules of Evidence they believe should apply to juvenile court. Judge Leavitt indicated the purpose of his appearance at the committee meeting is to introduce the idea to the members and get feedback on the proposed changes.

Matthew Johnson inquired if there had been pushback that indicated a need to amend Rule 101 or 1101 of the Rules of Evidence. Judge Leavitt indicated there had not been pushback, but he is addressing it because by adding a reference to juvenile court proceedings in Rule 412 and Rule 615 of the Rules of Evidence, it leaves some ambiguity as to its application. Judge Leavitt stated that by referencing juvenile proceedings in one rule, and omitting it from another, gives the indication that it was intended to be omitted in the other. Judge Leavitt believes it needs to be clarified one way or the other.

Judge Dame agreed that it is confusing and believes any reference to “or juvenile delinquency proceedings” should be removed. Judge Dame expressed appreciation for Judge Leavitt’s suggested changes to Rule 101 and 1101 as he believes it clarifies the applicability to juvenile proceedings. Michelle Jeffs also expressed she liked the suggested changes and believes clarifying the language is beneficial.

Judge Jensen stated the proposed changes caused her to pause and go through the rules. Judge Jensen expressed concern that the language could indicate a juvenile court proceeding is now a criminal case.

Chris Yannelli stated he would like to see the amendments to Rule 101 as proposed because it references both civil and criminal proceedings. David Fureigh agrees and indicated he likes the proposed changes to Rule 101 but does not know that changing Rule 1101 is necessary because Rule 43 of the Rules of Juvenile Procedure says the same thing. Judge Leavitt indicated he wanted them to match so there is no question from both sides of the equation that this body would have the authority to make exception to the Rules of Evidence. Although it is repetitive, Judge Leavitt stated because they are two different set of rules, it would be beneficial for them to match. Judge Dame clarified that it also includes juvenile court proceedings unless otherwise set out in the Rules of Juvenile Procedure, so Judge Dame believes the amendment to Rule 1101 is appropriate as well.

William Russell expressed concern to the proposed amendments and spoke in opposition to amending Rule 101. Mr. Russell indicated he went through the Rules of Evidence and pulled out the rules he believes the proposed amendment would affect, which include the following rules: 104, all three subparts of 404, 410, 417, 609, 612, 616 and 617. Mr. Russell also outlined several juvenile procedure rules that could be impacted as well, including Rule 15, 29A, 37A, 40, 43, 45 and 46. Mr. Russell expressed opposition to a wholesale change by adoption of the proposed amendments to Rule 101 and would prefer the committee be given direction to determine which of those rules should be juvenile court rules.

Mr. Russell indicated there are multiple policy issues, specifically to Rule 616 and 617. The amendment to Rule 101 would also be a very large change to subsections (a), (b), and (c) of Rule 404 on the practice in juvenile court. Mr. Russell stated he has long been disturbed by binary treatment of civil versus criminal in the Rules of Evidence because he believes juvenile court is neither one. Mr. Russell expressed the proposed amendment to Rule 101 starts in the right place, but as to policy decisions of the rules he previously outlined, Mr. Russell noted it should be up to the juvenile rules committee to determine what is admissible and what is not in juvenile court. Mr. Russell opposed a straight change to Rule 101 that when it states criminal, it means juvenile, and when it states defendant, it means minor accused in delinquency. Mr. Russell requests further study on the issue.

Mr. Russell stated his strongest objection is on Rule 404(c) of the Rules of Evidence, which deals with prior sexual misconduct being admissible in a criminal case. Mr. Russell believes if the proposed amendments to Rule 101 goes through, it will open the flood gates to use that evidence in a juvenile proceeding. Judge Leavitt indicated this discussion is important and outlines that if someone wanted to introduce 404(c) evidence in a juvenile court proceeding, there would likely be a discussion about policy and other things. In the end, unless it specified whether it was applicable to a juvenile court proceeding, the court could say there is no reason not to allow it.

Judge Leavitt indicated his first preference would be to amend only Rule 1101 and have the Rules of Juvenile Procedure committee make the policy decisions as to which Rules of Evidence apply in juvenile proceedings. Judge Leavitt needs assurance from the Rules of Juvenile Procedure committee that they will do it and if they are not willing to, the Rules of Evidence committee will do it. Judge Leavitt stated there are bigger issues than it looks like on the surface so if the Rules of Evidence committee removes any reference to juvenile court proceedings in Rule 412 and 615, and amend Rule 1101, he would like the juvenile rules committee to tackle the issue.

Judge Leavitt further stated Rule 506 of the Rules of Evidence is undergoing some revision to include some procedural ways in which a victim's mental health record would get before the court. This change may also implicate juvenile court proceedings. It may also affect some other privilege related rules that come up most often in a criminal context.

The committee had further discussion regarding Rule 412 and 615 of the Rules of Evidence and Rule 43 of the Rules of Juvenile Procedure. Chris Yannelli indicated he received a comment from another attorney regarding the language of "criminal case" versus "criminal proceeding" and the inconsistency throughout the Rules of Evidence. Judge Leavitt indicated he would discuss it with the committee.

The committee requested additional time to look closer at the issues. Judge Leavitt will join the committee at the next meeting on December 2, 2022, for further discussion.

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

David Fureigh reminded the committee that at the last meeting, the committee determined they should seek input from law enforcement about the change and requirement to sign a sworn statement when taking a youth into custody. The issue was continued over to this meeting, but it appears the committee is still seeking some input from law enforcement. There has been a request to continue this issue for the next meeting to get input from law enforcement. Mr. Fureigh also indicated the Supreme Court justices will also be pleased the committee is seeking input from law enforcement, so Mr. Fureigh can share their input with the Supreme Court.

Chris Yannelli stated he has passed the information to all law enforcement in the 4th district, and also sent the information to the 3rd district to seek input. Michelle Jeffs stated she had also taken the issue to law enforcement agencies in the 2nd district and they requested an opportunity to take it to the police association across the state. Ms. Jeffs indicated they are deeply interested in the issue and asked if they could have a representative come to the next meeting to address the issue. No objection is received to continue this agenda item to the next meeting.

4. Discussion & Action – URCP 4 and URJP 18: (All)

David Fureigh stated he brought this issue to the committee's attention and wanted the committee to have a discussion about whether Rule 18 of the Rules of Juvenile Procedure should reflect a similar bilingual notice as outlined in Rule 4 of the Rules of Civil Procedure. The committee had previously discussed that a form would need to be created specifically for child welfare matters. Mr. Fureigh stated the forms committee is in support of developing the form. Mr. Fureigh inquired whether the committee wanted to amend Rule 18 to make that requirement. If so, the committee needs to determine when and how that form is developed.

Raymundo Gallardo indicated the response he received from the forms committee was they were more than willing to draft a specific bilingual notice. A staff member on the forms committee would meet with members of the committee to create a bilingual notice and once it is drafted, they could take the form to the forms committee on our behalf and present that to them for approval.

Judge Dame is in favor of amending Rule 18 to reflect the requirement of a bilingual notice and believes it would be helpful. William Russell, Sophia Moore and Jordan Putnam are also in agreement to amend Rule 18.

The committee then had a discussion regarding whether a bilingual form was necessary for a delinquency summons, or just for child welfare and termination proceedings. Ms. Moore would like to see the delinquency summons that the court

sends out. Cade Stubbs or Mikelle Ostler will distribute a copy of a delinquency summons and Mr. Fureigh will distribute a sample of a summons on a child welfare proceeding.

Judge Dame and Sophia Moore agreed to work on a proposed amendment to Rule 18 to include the bilingual notice requirement to bring to the next meeting.

5. Discussion & Action - Proposed 2023 Meeting Schedule: (All)

David Fureigh indicated the committee meetings have generally been held on the 1st Friday of every month, except for July. Mr. Fureigh stated it was brought up in a previous meeting about the possibility of holding one meeting per year in person and recommends that meeting be held during the warmer months for those that travel.

Janette White proposed the in-person meeting be held in May or June. The committee selected the in-person meeting will take place on May 5, 2023. William Russell inquired if there would be a virtual option for those who are not able to attend in person. Mr. Fureigh stated it should be sufficient notice to make a virtual option.

The July 7, 2023 date will be removed from the proposed 2023 meeting schedule.

The committee is agreeable to the proposed meeting schedule.

6. Old business/new business: (All)

William Russell stated he has had multiple people ask him to consider bringing a proposal to the committee to create a rule involving procedures on restitution in delinquency matters. Mr. Russell indicated there seems to be a process the legislature has given without any details for what it means and stated he intends to formulate the proposal in the next few weeks to start a dialogue on the issue.

Judge Dame stated he has several rules that he will prepare to discuss in more detail at later meetings as well.

David Fureigh inquired if Carol Verdoia had any legislative updates that may affect the committee. Ms. Verdoia stated there is one child welfare bill pending and one bill that will go through interim committees about a state ICWA law. If anyone is interested in that information, Ms. Verdoia has an e-mail about the dates/times where that will be discussed and can distribute the information to the committee members.

Janette White inquired if anyone has proposed a bill to stop the collection of child support while children are in custody. Ms. Verdoia stated there was some discussion regarding that issue last year, but she does not recall specifics. Ms.

Verdoia indicated there was concern about the money supporting placements that DCFS pays for, but stated it is an interesting issue and she can pass it along.

The meeting adjourned at 1:15 PM. The next meeting will be held on December 2, 2022 at 12:00 PM via Webex.

TAB 2

Rule 412. Admissibility of Victim's Sexual Behavior or Predisposition.

Effective: 5/1/2017

(a) Prohibited Uses. The following evidence is not admissible in a criminal ~~or juvenile delinquency~~ proceedings involving alleged sexual misconduct:

(a)(1) evidence offered to prove that a victim engaged in other sexual behavior; or

(a)(2) evidence offered to prove a victim's sexual predisposition.

(b) Exceptions. The court may admit the following evidence if the evidence is otherwise admissible under these rules:

(b)(1) evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(b)(2) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; or

(b)(3) evidence whose exclusion would violate the defendant's constitutional rights.

(c) Procedure to Determine Admissibility.

(c)(1) Motion. If a party intends to offer evidence under [Rule 412\(b\)](#), the party must:

(c)(1)(A) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(c)(1)(B) do so at least 14 days before trial unless the court, for good cause, sets a different time; and

(c)(1)(C) serve the motion on all parties.

(c)(2) Notice to the Victim. The prosecutor shall timely notify the victim or, when appropriate, the victim's guardian or representative.

(c)(3) Hearing. Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing are classified as protected.

(d) Definition of "Victim." In this rule, "victim" includes an alleged victim.

Rule 615. Excluding Witnesses.

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:

(a) a party who is a natural person;

(b) an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney;

(c) a person whose presence a party shows to be essential to presenting the party's claim or defense;

(d) a victim in a criminal ~~or juvenile delinquency~~ proceeding where the prosecutor agrees with the victim's presence;

(e) a victim counselor while the victim is present unless the defendant establishes that the counselor is a material witness in that criminal or juvenile delinquency proceeding;
or

(f) a person authorized by statute to be present.

Rule 101. Scope; Definitions.

(a) **Scope.** These rules apply to proceedings in Utah courts. The specific courts and proceedings to which the rules apply, along with exceptions, are set out in [Rule 1101](#).

(b) **Definitions.** In these rules:

(b)(1) “civil case” means a civil action or proceeding, including all juvenile court cases or proceedings that are not delinquency proceedings~~non-delinquency proceedings~~;

(b)(2) “criminal case” includes a criminal proceeding and a juvenile court delinquency case or proceeding;

(b)(3) “public office” includes a public agency;

(b)(4) “record” includes a memorandum, report, or data compilation;

(b)(5) a reference to any kind of written material or any other medium includes electronically stored information;

(b)(6) “defendant” includes a minor in a juvenile delinquency case or proceeding accused of committing an act that would be a crime if committed by an adult;

(b)(7) “conviction” includes an adjudication in a juvenile delinquency case or proceeding.

Rule 1101. Applicability of Rules.

Effective: 5/1/2022

(a) **Proceedings Generally.** These rules apply to all actions and proceedings in the courts of this state except as otherwise provided in subsections (c) and (d). They apply generally to civil actions and proceedings, criminal cases and contempt proceedings except those in which the court may act summarily, and all juvenile court proceedings unless stated otherwise in the Utah Rules of Juvenile Procedure.

(b) **Rule of Privilege.** The rule with respect to privileges applies at all stages of all actions, cases and proceedings.

(c) **Rules Inapplicable.** The rules (other than with respect to privileges) do not apply in the following situations:

(c)(1) **Preliminary Questions of Fact.** The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under URE 104.

(c)(2) **Grand Jury.** Proceedings before grand juries.

(c)(3) **Revoking Probation.** Proceedings for revoking probation, unless the court for good cause otherwise orders.

(c)(4) **Miscellaneous Proceedings.** Proceedings for extradition or rendition; sentencing; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

(d) **Reliable Hearsay in Criminal Preliminary Examinations.** In a criminal preliminary examination, reliable hearsay shall be admissible as provided under URE 1102.

URE/URJP INTERPLAY—DECEMBER 2022

Both URE 101(a) and URE 1101(a) clearly state that the Utah Rules of Evidence apply in all courts and judicial proceedings in the state, which includes the juvenile court. U.R.Juv.P. 43(a) also specifically adopts them unless otherwise provided by rule or law. It appears beyond dispute that child welfare proceedings, which are civil in nature, are governed by the Rules of Evidence unless a specific juvenile rule or statute states otherwise. The question now arises as to how to clarify for delinquency cases which, if any, rules of evidence that use the terms “criminal case,” “criminal proceedings,” and “the defendant” should be adopted as juvenile rules using relevant terms such as “delinquency proceedings” and “the minor.”

Committee member William Russell submits the following to the chair, staff and other members of the committee for review and discussion. They are based on his observations in practice as a juvenile court practitioner as well as discussions with others who have analogous professional experience. What follows reflects some of his individual views and preliminary positions, but is intended to be neither exhaustive of discussion points nor definitive in nature.

I. PRESENT URE WITH JUV TERMS

URE 412-AV’s Prior Sexual Behavior & URE 615-Witness Exclusion

These two rules of evidence presently use terminology making them clearly applicable to Juv proceedings. If substantially adopted as Juv rules, the Evidence rules could delete those references.

II. PRESENT URE WITH CRIM/JUV IMPLICATIONS

URE 404-**Character evidence; Crimes or other acts.** Subsections (a) and (b) protect substantial due process and fairness rights of both the accused and the victim in criminal cases. Constitutional provisions may actually require them to be applied in delinquency cases, but no rule presently says this. Subsection (c) seems ill-suited to delinquency cases and some oppose its inclusion in the juvenile rules.

URE 410-**Pleas, plea discussions, and related statements.** Bars admission of withdrawn and “nolo contendere” pleas and colloquies with some exceptions. I have never seen nor heard of this rule being invoked in juvenile court, perhaps due to its fundamental nature. “No contest” is the analogous Juv plea.

URE 417-**Admissibility. . victim targeting. .** Allows limited admissibility of a defendant’s expression and association in a criminal case to prove victim targeting. Consistency and fairness may mitigate in favor of inclusion in a juvenile rule.

URE 609-**Impeachment by evidence of a criminal conviction.** Prior adult felony/dishonesty/false statement convictions are admissible in civil and criminal cases to impeach any witness, subject to limitations. Juvenile adjudications can be used only in criminal cases, but not against the defendant. Reliability, consistency, fairness and constitutional considerations seem to weigh in favor of inclusion in a juvenile rule in some form, but with substantial revision. This one really befuddled me.

URE 612-Writing used to refresh a witness's memory. Provides for sanctions in a criminal case for failure to provide writings used to refresh a witness recollection. Reliability, consistency, fairness and constitutional considerations seem to weigh in favor of inclusion in a juvenile rule.

URE 616-Statements made during custodial interrogations. Reliability, consistency, fairness and constitutional considerations seem to weigh in favor of inclusion in a juvenile rule. Existing (and recently amended) Juv rule 27A already governs admission of these statements given by minors and the provisions of this rule of evidence could be added to 27A. There would likely be discussion as to whether the scope of existing URE 616 should be broadened to include misdemeanor as well as felony prosecutions in juvenile court. Reliability, consistency, fairness and constitutional considerations seem to weigh heavily in favor of inclusion in a juvenile rule.

URE 617-Eyewitness identification. Provides a process to challenge and litigate eyewitness identification in a criminal trial. Reliability, consistency, fairness and constitutional considerations seem to weigh heavily in favor of inclusion in a juvenile rule.

III. PRESENT JUVENILE RULES RELATED TO EVIDENCE

15(c)-minor's statements in preliminary inquiry meetings not admissible to prove guilt

29A-process to admit CJC recordings in delinq trials

37A- process to admit CJC recordings in CW trials

40-order of presentation at trials

43-rules of evidence apply unless otherwise provided

45-court not to review dispositional reports until after adjudication

46-rules of evidence do not apply to dispositional hearings

IV. STRUCTURE AND REORGANIZATION OF THE JUVENILE RULES

Presently at least seven evidentiary rules are scattered about the Utah Rules of Juvenile Procedure. If multiple (as many as nine?) evidentiary rules are approved by the committee and submitted for consideration by the Supreme Court, it may be prudent to renumber, revise, and reorganize the current format. The committee may also want to consider the "large-cap add on" rules of 7 & 7A; 16 & 16A; 19, 19A, 19B & 19C; 25 & 25A; 27 & 27A; 29, 29A, & 29B; and 37, 37A & 37B.

TAB 3

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)

1 **Rule 6. Admission to detention without court order.**

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3 Rules Title R547, Chapter 13, Guidelines for Admission to Secure Youth Detention
4 Facilities.

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7 under criminal penalty of the State of Utah that the foregoing is true and correct to the
8 best of my belief and knowledge, that alternatives to detention have been considered, and
9 that the reason the minor was taken to a detention facility is free from bias."

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8 best of my belief and knowledge, that alternatives to detention have been considered, and
9 that the reason the minor was taken to a detention facility is free from bias."

TAB 4

Rule 18. Summons; service of process; notice.

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

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

(2) Content of the summons.

(A) Abuse, neglect, and dependency cases. The summons ~~shall~~must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It ~~shall~~must state the time within which the respondent is required to answer the petition, and ~~shall~~must notify the respondent that in the case of the failure to do so, judgment by default may be rendered against the respondent. It ~~shall~~must ~~also~~ contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(B) Termination of parental rights cases. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It must state the time within which the respondent is required to answer the petition. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(C) Other cases. The summons ~~shall~~must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It ~~shall~~must also contain an abbreviated

reference to the substance of the petition. In proceedings against an adult pursuant to Utah Code section 78A-6-450, the summons ~~shall~~must conform to the Utah Rules of Criminal Procedure and be issued by the prosecuting attorney.

(3) The summons ~~shall~~must be directed to the person or persons who have physical care, control or custody of the minor and require them to appear and bring the minor before the court. If the person so summoned is not the parent, guardian, or custodian of the minor, a summons ~~shall~~must also be issued to the parent, guardian, or custodian. If the minor or person who is the subject of the petition has been emancipated by marriage or is 18 years of age or older at the time the petition is filed, the summons may require the appearance of the minor only, unless otherwise ordered by the court. In neglect, abuse and dependency cases, unless otherwise directed by the court, the summons ~~shall~~must not require the appearance of the subject minor.

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

(b) Service.

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

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

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

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

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

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

(d) **Notice.**

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

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

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

(f) **Service of pleadings and other papers.** Except as otherwise provided by these rules or by statute, service of pleadings and other papers not requiring a summons ~~shall~~must be made by the methods provided in Rule 5 of Utah Rules of Civil Procedure, except that

110 service to the email address on file with the Utah State Bar is sufficient service to an
111 attorney under this rule, whether or not an attorney agrees to accept service by email.
112 (g) Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for
113 eFiling documents does not constitute an electronic filing account as referenced in the
114 Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

Rule 18. Summons; service of process; notice.

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

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

(2) Content of the summons.

(A) Abuse, neglect, and dependency cases. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It must state the time within which the respondent is required to answer the petition, and must notify the respondent that in the case of the failure to do so, judgment by default may be rendered against the respondent. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(B) Termination of parental rights cases. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It must state the time within which the respondent is required to answer the petition. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(C) Other cases. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place and time of the hearing. It must also contain an abbreviated

reference to the substance of the petition. In proceedings against an adult pursuant to Utah Code section 78A-6-450, the summons must conform to the Utah Rules of Criminal Procedure and be issued by the prosecuting attorney.

(3) The summons must be directed to the person or persons who have physical care, control or custody of the minor and require them to appear and bring the minor before the court. If the person so summoned is not the parent, guardian, or custodian of the minor, a summons must also be issued to the parent, guardian, or custodian. If the minor or person who is the subject of the petition has been emancipated by marriage or is 18 years of age or older at the time the petition is filed, the summons may require the appearance of the minor only, unless otherwise ordered by the court. In neglect, abuse and dependency cases, unless otherwise directed by the court, the summons must not require the appearance of the subject minor.

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

(b) Service.

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

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

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

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

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

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

(d) **Notice.**

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

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

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

(f) **Service of pleadings and other papers.** Except as otherwise provided by these rules or by statute, service of pleadings and other papers not requiring a summons must be made by the methods provided in Rule 5 of Utah Rules of Civil Procedure, except that

110 service to the email address on file with the Utah State Bar is sufficient service to an
111 attorney under this rule, whether or not an attorney agrees to accept service by email.
112 (g) Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for
113 eFiling documents does not constitute an electronic filing account as referenced in the
114 Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

Effective 9/1/2022

78A-6-351 Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

- (1)
 - (a) After a petition is filed in the juvenile court, the juvenile court shall promptly issue a summons, unless the juvenile court directs that a further investigation is needed.
 - (b) A summons is not required for a person who:
 - (i) appears voluntarily; or
 - (ii) files a written waiver of service with the clerk of the court at or before the hearing.
- (2) A summons under Subsection (1)(a) shall contain:
 - (a) the name of the court;
 - (b) the title of the proceedings; and
 - (c) except for a published summons, a brief statement of the substance of the allegations in the petition.
- (3) A published summons shall state:
 - (a) that a proceeding concerning the minor is pending in the court; and
 - (b) an adjudication will be made.
- (4)
 - (a) A summons under Subsection (1)(a) shall require:
 - (i) a minor to appear personally in the juvenile court at a time and place stated; or
 - (ii) if a person who has physical custody of the minor, for the person to:
 - (A) appear personally; and
 - (B) bring the minor before the court at a time and place stated.
 - (b) If the minor is a child and a person summoned is not the parent or guardian of the minor, the juvenile court shall issue the summons to the minor's parent or guardian, as the case may be, notifying the parent or guardian of the pendency of the case and of the time and place set for the hearing.
- (5) A summons may be issued requiring the appearance of any other person whose presence the juvenile court finds necessary.
- (6) If it appears to the juvenile court that the welfare of the minor or of the public requires that the minor be taken into temporary custody under Section 80-6-201 or protective custody under Section 80-2a-202, and it does not conflict with Section 80-6-202, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.
- (7)
 - (a) Upon the sworn testimony of one or more reputable physicians, the juvenile court may order emergency medical or surgical treatment that is immediately necessary for a minor for whom a petition has been filed pending the service of summons upon the minor's parent, guardian, or custodian.
 - (b) If the juvenile court orders emergency medical or surgical treatment:
 - (i) if a petition for delinquency has been filed under Section 80-6-305, Subsection 80-6-706(4) shall apply to the juvenile court's decision to order treatment;
 - (ii) if a petition has been filed under Section 80-3-201, Subsection 80-3-109(3) shall apply to the juvenile court's decision to order treatment; or
 - (iii) if a petition has been filed under Section 80-4-201, Subsection 80-4-108(4) shall apply to the juvenile court's decision to order treatment.
- (8)

- (a) A minor is entitled to the issuance of compulsory process for the attendance of witnesses on the minor's own behalf.
 - (b) A minor's parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor.
 - (c) A guardian ad litem or a juvenile probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.
- (9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Juvenile Procedure.
- (10)
- (a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.
 - (b) Notwithstanding Subsection (10)(a), upon request of the juvenile court, service shall be made by any other peace officer or by another suitable person selected by the court.
- (11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned, except that the parents of a child living together at the parents' usual place of abode may both be served by personal delivery with one copy of the summons for each parent.
- (12)
- (a) If the juvenile court makes a written finding that the juvenile court has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the juvenile court may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state.
 - (b) Service is complete upon return to the juvenile court of the signed receipt.
- (13)
- (a) If the child's parent or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of the child's presence within the state shall confer jurisdiction on the juvenile court in proceedings in a child's case as to any absent parent or guardian when:
 - (i) the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Juvenile Procedure; or
 - (ii) the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:
 - (A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; or
 - (B) in accordance with Section 45-1-101 for four weeks.
 - (b)
 - (i) If service is by registered mail under Subsection (13)(a)(i), service is complete upon return to the juvenile court of the signed receipt.
 - (ii) If service is by publication under Subsection (13)(a)(ii), service is complete on the day of the last publication.
 - (c) Service of summons as provided in this Subsection (13) shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.
- (14)

- (a) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction.
- (b) In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.
- (15) Computation of periods of time under this chapter and Title 80, Utah Juvenile Code, shall be made in accordance with Utah Rules of Juvenile Procedure, Rule 4.

Amended by Chapter 334, 2022 General Session

Effective 9/1/2021

80-4-204 Notice of petition.

- (1)
 - (a) After a petition for termination of parental rights is filed, notice shall:
 - (i) be provided to the parents, the guardian, the individual or agency having legal custody of the child, and any individual acting in loco parentis to the child; and
 - (ii) indicate the:
 - (A) nature of the petition;
 - (B) time and place of the hearing;
 - (C) right to counsel; and
 - (D) right to the appointment of counsel for a party whom the juvenile court determines is indigent and at risk of losing the party's parental rights.
 - (b) The notice described in Subsection (1)(a), or a separate notice subsequently issued, shall contain a statement to the effect that the rights of the parent or parents are proposed to be permanently terminated in the proceedings.
- (2) The juvenile court shall hold a hearing specifically on the question of termination of parental rights no sooner than 10 days after the day on which the notice described in Subsection (1) is served.

Renumbered and Amended by Chapter 261, 2021 General Session

DELINQUENCY SUMMONS

Fourth District Juvenile Court Utah County, State of Utah

State of Utah, in the interest of	SUMMONS
[REDACTED], [REDACTED], [REDACTED]	Case Number: [REDACTED]
a person under 18 years of age	Judge: Brent Bartholomew

To the Parent(s), Guardian(s), Custodian, and/or Relatives:

Party Information

Relationship Type

[REDACTED]
[REDACTED]
OREM UT 84058

Father

[REDACTED]
[REDACTED]
LINDON UT 84042

Mother

A petition has been filed alleging **[REDACTED]** is within the jurisdiction of the juvenile court.
The petition is attached stating the alleged facts.

Allegation(s):

ALLEGATION13 - ASSAULT-BODILY INJURY/SUB RISK

ALLEGATION14 - DOMESTIC VIOL. CHILD PRESENT

ALLEGATION20 - ASSAULT MEDICAL SERVICE WORKER

You are notified of this matter and summoned to personally appear with [REDACTED]
[REDACTED] for a hearing to be held at the date, time and location specified below.

Hearing Date: March 15, 2022
Hearing Time: 02:00 PM
Location: Fourth District Juvenile Court - Utah County
137 N Freedom Boulevard - Courtroom 3D
Provo UT 84601
Before: Judge Brent Bartholomew

Hearing Type: Allegation 20 - Arraignment / Pretrial
Allegation 14 - Arraignment / Pretrial
Allegation 13 - Arraignment / Pretrial

**** Please Note *****

Court proceedings, including electronic proceedings, are recorded by the courts. Under rule 4-401-02 of the Utah Rules of Judicial Administration, proceedings may not be recorded by the public, photographed, or transmitted to other devices.

In compliance with the Americans with Disability Act, individuals needing special accommodations (including auxiliary communicative aids and services) should call (801)354-7200 at least three working days prior to the proceeding. For TDD phone access, call (801)260-6349.

If you need an interpreter, please notify the court at least three working days prior to the proceeding.

For up-to-date information on court operations during the COVID-19 pandemic, please visit <https://www.utcourts.gov/alerts/>

If service is by mail and you fail to appear, the county sheriff will personally summons you to court. If you have been served this summons in person, and you fail to appear, **this may be punishable as contempt of court.**

/s/ Brooklyn Blackett, Clerk

02-01-2022

JUSTIN G. JENSEN--8310

Assistant Attorney General

Sean D. Reyes-7969

Utah Attorney General

Attorneys for the State of Utah

2540 Washington Blvd., 3rd Floor

Ogden, Utah 84401

Telephone: (385) 985-6868

Email:

justinjensen@agutah.gov

IN THE SECOND DISTRICT JUVENILE COURT
WEBER COUNTY, STATE OF UTAH

STATE OF UTAH, in the interest of Petitioner,	SUMMONS TIER II
	CASE NO:
Persons under eighteen years of age.	Judge: Rick Westmoreland
TO:	DOB: 1775 TELEPHONE:

A Verified Petition has been filed in the interest of the above-named child(ren), pursuant to Utah Code Section 80-3-201, by the State of Utah, Division of Child and Family Services. The Verified Petition alleges that the above-named child(ren) are neglected, abused and/or dependent child(ren). The Verified Petition also alleges that one and/or all of the biological, legal parents, and/or legal guardians of the above-named child(ren) are responsible for the neglect, abuse, and/or dependency of the above-named child(ren).

The above-entitled Court has initiated proceedings pursuant to the Verified Petition in this matter and has set a mediation and an initial pretrial hearing/trial/adjudication on the Verified Petition. The hearing is scheduled on the 13th day of OCTOBER, 2022 at 10:30 am. The hearing will be held by the Second District Juvenile Court, Weber County, Utah, located at 165 20th Street, Ogden, Utah 84401. Telephone number is 801-334-4700.

YOU ARE SUMMONED AND REQUIRED TO APPEAR to the above stated hearing at the time and place indicated. You will be required to enter an answer regarding the allegations found in the State's Verified Petition, at the hearing. You may enter your answer orally at the hearing, or you may file a written answer with the Court. If you do not file a written answer with the Court prior to the hearing or enter an oral answer at the above scheduled hearing, you will have ten (10) days from the scheduled hearing above,

or twenty five (25) days after service of the Verified Petition, whichever day comes first, to file your written answer with the Court. You are also notified that pursuant to Rule 34 of the Utah Rules of Juvenile Procedure, the Court may enter a default judgement against you on the State's Verified Petition, if you fail to appear *remotely* or by counsel to the hearing above after having been served with this Summons. You are also put on notice that at this hearing the Court may make orders regarding your parental rights, to include but not limited to, custody and/or visitation rights to the above-named child(ren).

You and the child(ren) named above are entitled to be represented by an attorney at this hearing, and at all other hearings and stages regarding this matter. If you cannot afford an attorney and you are found indigent by the Court, an attorney may be appointed to you by the Court. You may request the Court to appoint counsel to you prior to this scheduled hearing, by contacting the Court named above.

A copy of the following documents have been attached to this Summons and now are considered to have been legally served upon you:

Verified Petition for Custody and Guardianship, dated 10-05-2022

Dated this 6th day of October, 2022.

SEAN D. REYES
UTAH ATTORNEY GENERAL

Justin G. Jensen
Justin G. Jensen
Assistant Attorney General

TERMINATION OF PARENTAL RIGHTS SUMMONS

NATHAN M. ROMAN- 13092
Assistant Attorney General
SEAN D. REYES - 7969
Utah Attorney General
Attorneys for the State of Utah
2540 Washington Blvd., Third Floor
Ogden, Utah 84401
Telephone: (385)985-6868
nroman@agutah.gov

IN THE SECOND DISTRICT JUVENILE COURT
WEBER COUNTY, STATE OF UTAH

STATE OF UTAH, in re:	SUMMONS
DOB:	Case No(s).
Child(ren) under 18 years of age.	Judge Debra Jensen

TO:

DOB:

TELEPHONE

A Verified Petition for Termination of Parental Rights has been filed in the above stated matter pursuant to Utah Code Section 80-4-201. Said Termination Petition is seeking to permanently terminate any and all parental rights of the above-named child(ren)'s biological and/or legal parents. Said Termination Petition alleges that there are grounds for permanently terminating any and all rights of the above-named child(ren)'s biological and/or legal parents pursuant to Utah Code Section 80-4-301. Said Termination Petition also alleges that the above entitled Court has jurisdiction over this matter pursuant to Utah Code Section 78A-6-103.

The Court has initiated proceedings in this matter and has set the matter for a pre-trial/trial/ Adjudication hearing and/or an adjudication hearing on said Termination Petition, on **FEBRUARY 14, 2023 at 3:00 pm**, at 165 20th Street, Ogden, Utah 84401. Telephone Number is 801-334-4700.

YOU ARE SUMMONED AND REQUIRED TO APPEAR at the above stated hearing at the time indicated.

You will be required to enter an answer regarding the allegations found in the State's Verified Petition, at the hearing. You may enter your answer orally at the hearing, or you may file a written answer with the Court. If you do not file a written answer with the Court prior to the hearing or enter an oral answer at the above scheduled hearing, you will have ten (10) days from the scheduled hearing above, or twenty five (25) days after service of the Verified Petition, whichever day comes first, to file your written answer with the Court. You are also notified that the Court may proceed with a trial/adjudication hearing on the State's Petition in your absence. You are also put on notice that at this hearing the Court may make orders regarding your parental rights, to include but not limited to, custody and/or visitation rights to the above-named child(ren).

You and the child(ren) named above are entitled to be represented by an attorney at this hearing, and at all other hearings and stages regarding this matter. If you cannot afford an attorney and you are found indigent by the Court, an attorney may be appointed to you by the Court. You may request the Court to appoint counsel to you prior to this scheduled hearing, by contacting the Court named above.

DATED this 21st day of November, 2022.

OFFICE OF THE UTAH ATTORNEY GENERAL

Nathan M. Roman

Nathan M. Roman
Assistant Attorney General

A copy of the following document was served with a copy of this summons:
Verified Petition to Terminate Parental Rights dated 10/20/2022 and Review Order,
dated 1/25/2022

KELLY ANN BOOTH (10910)
 ASSISTANT ATTORNEY GENERAL
 SEAN D. REYES (7969)
 UTAH ATTORNEY GENERAL
 Attorneys for the State of Utah
 55 N University Ave., Suite 219
 Provo, UT 84601
 Telephone: (801) 812-5200
 Email: agccpr@agutah.gov

**IN THE FOURTH DISTRICT JUVENILE COURT
 UTAH COUNTY, STATE OF UTAH**

STATE OF UTAH
 In the Interest Of:

[REDACTED] [REDACTED]

A person(s) under 18 years of age

**SUMMONS AND NOTICE OF TRIAL
 ON STATE'S VERIFIED PETITION
 FOR TERMINATION OF PARENTAL
 RIGHTS**

Case No. [REDACTED]
 Case No. [REDACTED]

Judge Brent H. Bartholomew

STATE OF UTAH TO:

[REDACTED]

MEXICO

PHONE NUMBER [REDACTED]

YOU ARE HEREBY SUMMONED and required to appear at the above-entitled Court located at **137 North Freedom Blvd Courtroom 3D, Provo, Utah**, before the Honorable Brent H. Bartholomew, Judge of the Fourth District Juvenile Court, for Trial on **October 5, 2020, beginning at the hour of 9:00 a.m. MDT**. The State of Utah, Division of Child and Family Services ("DCFS"), has filed a Verified Petition for Termination of Parental Rights with this

Court. The Verified Petition requests that your parental rights to the above-named children be permanently terminated. A copy of said petition is attached hereto and served upon you.

The Verified Petition is brought pursuant to Utah Code Ann. §78A-6-103(1)(b), §78A-6-105 and §78A-6-507.

You have the right to submit an answer to the Petition within 10 days after the pre-trial hearing or 25 days after service of the petition whichever comes first. You may answer orally at the pre-trial hearing. You have the right to be represented by legal counsel. If you cannot afford legal counsel, please contact the Fourth District Juvenile Court, located at 137 North Freedom Blvd Courtroom 3D, Provo, Utah, telephone (801) 354-7200, for more information.

Pursuant to Utah Code Ann. §78A-6-1106, if legal custody of the child(ren) is vested by the Court to any state department, division, or agency other than the child(ren)'s parent(s), or if the guardianship of the child(ren) has been granted to another party, the Court shall order the parent(s) or any other obligated person to pay support for each month the child(ren) is/are in custody.

If you fail to appear and/or answer, the relief requested in the Petition may be granted by the Court. Pursuant to *Utah Rules of Juvenile Procedure* 19, if you fail to appear, a default judgment may be rendered against you. If you fail to appear, contempt of court proceedings may be pursued.

DATED THIS 6th day of June 2020.

SEAN D. REYES
Utah Attorney General

/s/ Kelly Ann Booth
Kelly Ann Booth
Assistant Attorney General

Filer Name

Filer Firm

Filer Address

City, Utah 84114

(801) 333-4444

eFile@CARE_IS_GREAT.gov

District Office Name

FOR County Name COUNTY, STATE OF UTAH

STATE OF UTAH, in the interest of		4DJC - BHB PROVO - Order Appointing Guardian ad Litem and Notice of Hearing
CAREText0, Test T.	09-13-2015	Case No. 111111
CAREText1, Test T.	09-13-2015	111112

Pursuant to Utah Code Ann. Sections 78A-6-902 and 78A-2-227, it is hereby ordered that the Office of the Guardian ad Litem be appointed to represent the best interest of the minor child/children named above until final disposition of the case or until discharged by the Court. Said Guardian shall have the duties and powers of the Guardian ad Litem set forth in the above cited sections and incorporated herein, including but not limited to the following:

I. Reasonable access to the child, for the purpose of meeting with and interviewing the child, pursuant to Utah Code Section 78A-6-902.

II. Access to records pertaining to the child and relevant to Juvenile Court proceedings, including but not limited to: DCFS records, medical, psychological, and school records, pursuant to Utah Code Section 78A-6-902.

III. A requirement to hold information confidential as required and not disclose said information except to the Court, as authorized by the Court, here provided by law, or where disclosure is

necessary for the protection, safety, and/or treatment of the child.

IV. The Guardian ad Litem shall be given notice of all hearings and proceedings, including, but not limited to, administrative, juvenile, family, civil, criminal, appellate and all conferences, including multi-disciplinary team meeting, individual educational program meetings or interagency meetings regarding the child in order to protect the best interest of the child therein, unless otherwise ordered by the court. Pursuant to Utah Code Ann. Section 78A-6-902.

V. All parties are notified that pursuant to Utah Code Ann. Section 78A-6-902 the court may assess attorneys fees, court costs, staff and volunteer expenses against the minor's parent, parents or legal guardian in an amount that the Court determines to be just and appropriate, unless said parent, parents or legal guardian are found to be impecunious.

VI. Further hearing in this matter has been set as indicated below.

NOTICE OF HEARING:

@@TYPE OF HEARING@@

@@DATE AND TIME OF HEARING@@

137 North Freedom Blvd. (Courtroom 3D)

Provo, UT 84601

PLEASE NOTE: Do not appear at the courthouse for this hearing; the hearing will take place via Webex. If you have not received a Webex invitation contact the Juvenile Court at 801-354-7200 and select the option for the Judge Bartholomew team. You may also send an email to 4thjuvbartholomew@utcourts.gov. If you do not have access to an electronic device to participate via Webex, contact the court no later than 48 hours prior to the hearing.

You may contact the office of the Guardian ad Litem at (801) 429-8501.

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



请扫描QR码访问
网页

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

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

utcourts.gov/viet



Xin vui lòng quét mã
QR (Trả lời nhanh) để
viếng trang

TAB 5

Rule 29C. Victim restitution orders.

- (a) Orders of victim restitution are governed by Utah Code section 80-6-710.
- (b) To be considered by the court for a dispositional order as to a minor, the submission of a request for victim restitution ~~shall~~must be in writing and filed by the prosecuting attorney or the victim in the juvenile court's CARE system and served on all parties, in the time and manner provided by statute and these rules. Failure to timely file and serve such request constitutes a bar on the entry of an order of victim restitution as to the minor.
- (c) A Victim Impact Statement uploaded to the CARE system is not sufficient to be deemed a submitted request for victim restitution.
- (d) If a request for victim restitution is filed, the documentation supporting the request described in Utah Code section 80-6-710(3)(a) and (b) ~~shall~~must be attached to the written request.
- (e) The court may enter an order of victim restitution as to the minor based upon a timely filed and supported request for restitution if the parties stipulate, or if the time to object under these rules has passed. If a timely objection to the request for victim restitution is filed by the minor, the court ~~shall~~will hold a hearing to determine whether the adjudicated offenses proximately caused the victim's material loss, whether the supporting documents adequately prove such amounts, and the minor's ability to pay.
- (f) At the hearing the prosecution bears the burden to prove with admissible evidence that, by a preponderance of the evidence, the adjudicated offenses proximately caused the victim's material loss stated in the written request, and whether the supporting documents adequately prove such requested amounts. Any party may present evidence of the minor's ability to pay restitution.
- (g) At the conclusion of the hearing, the court ~~shall~~will enter findings as to whether the prosecution has met its burden to prove, by a preponderance of the evidence, that the minor proximately caused the material loss requested as victim restitution, whether the documentation provided are sufficient to support the request, and whether the minor has the ability to pay any such ordered victim restitution.