



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

Meeting Agenda

David W. Fureigh, Chair

Location: Webex Meeting

Date: June 2, 2023

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of May 5, 2023, meeting minutes.	Tab 1	David Fureigh
Discussion & Action: Rule 27A . Admissibility of statements given by a child. <ul style="list-style-type: none">Discuss feedback from the Supreme Court.	Tab 2	All
Discussion & Action: Rule 22 . Initial appearance at preliminary examination in cases under Utah Code section 80-6-503. <ul style="list-style-type: none">Paragraph (f) may need an amendment to remain consistent with recent amendments made to paragraph (h).	Tab 3	All
Discussion & Action: Rule 10 . Bail for non-resident minors. <ul style="list-style-type: none">References to statute in Rule 10 may need to be updated.	Tab 4	Judge Dame Arek Butler All
Discussion & Action: H. B. 60 : Juvenile Justice Modifications. <ul style="list-style-type: none">House Bill 60 makes amendments to the juvenile expungement statute. Do the references to statute in Rule 17 and Rule 56 need to be updated?Rule 17 may need further revisions to references to statute.	Tab 5	All

Discussion: Rule 52 . Appeals. <ul style="list-style-type: none"> <i>Should paragraph (b) make mention of restoration of parental rights cases?</i> 	Tab 6	All
Discussion: Old business or new business		All

[URJP Committee Site](#)

Meeting Schedule:

August 4, 2023

November 3, 2023

September 1, 2023

December 1, 2023

October 6, 2023

TAB 1



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

Draft Meeting Minutes

David W. Fureigh, Chair

Location: Matheson Courthouse, Salt Lake City and Webex

Date: May 5, 2023

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> David Fureigh, Chair Judge Paul Dame William Russell Janette White Mikelle Ostler Judge Debra Jensen Sophia Moore Michelle Jeffs Arek Butler Kristin Fadel Jordan Putnam Matthew Johnson Thomas Luchs Jim Smith Carol Verdoia, Emeritus Member</p>	<p><u>Excused Members:</u> Chris Yannelli</p> <p><u>Guests:</u> Destiny Messmer Blake Murdoch Jacqueline Carlton</p>
<p><u>Staff:</u> Raymundo Gallardo Kiley Tilby, Recording Secretary Carolyn Sharp, Juvenile Court Law Clerk Joseph Rivera De La Vega, Juvenile Court Law Clerk</p>	

1. Welcome and approval of the April 7, 2023 Meeting Minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and welcomed the guests, Destiny Messmer, Blake Murdoch, and Jacqueline Carlton. Mr. Fureigh then welcomed the two new members of the committee, Thomas Luchs and Jim Smith. All committee members introduced themselves.

Mr. Fureigh stated he had a few other announcements. First, Mr. Fureigh announced that the Supreme Court approved Matthew Johnson as the new chair of the committee, which will be effective June 30, 2023. Mr. Fureigh indicated Mr. Johnson has been the Vice Chair and is ready and willing to take on the responsibility of being the Chair. Mr. Fureigh then provided clarification regarding the terms of the committee members and stated the rules allow members to service two three-year terms and a few of the committee members are reaching their second term, which will end on June 30, 2023. The committee members reaching the end of their terms are Chris Yannelli, Mikelle Ostler, and Kristin Fadel. Mr. Fureigh announced that an application went out to fill those vacancies, and the application deadline is May 7, 2023. Once those applications are received, they will be reviewed and taken to the Supreme Court conference to seek their approval to fill the vacancies. Mr. Fureigh stated he is hoping to announce the new committee members at the June meeting, depending on the Supreme Court conference. Mr. Fureigh indicated he has served as the chair for four years and served two terms as a committee member. His term as the chair will expire on June 30, 2023.

Mr. Fureigh asked Mr. Gallardo to give an update on the bilingual Summons. Mr. Gallardo stated he, Ms. Ostler, and Ms. White met with the staff to the forms committee and discussed the committee's interest in developing their own bilingual notice to attach to the summons. They also informed the staff to the forms committee that changes to Rule 18 were in process, but this committee was holding off for final approval until the bilingual notice was approved by the Judicial Council. Mr. Gallardo indicated they will meet again next week and hope to have a draft ready to present to the subcommittee of the forms committee. Mr. Gallardo stated once they have a proposed form, it will be presented to this committee for final approval, in hopes to have it all approved by November 1, 2023.

Mr. Fureigh then asked the committee for approval of the April 7, 2023 meeting minutes. Ms. White moved to approve the minutes. Mr. Putnam seconded the motion, and it passed unanimously.

2. Discussion – JJYS Juvenile Referral and Request for Detention Form: (Blake Murdoch; David Fureigh)

Mr. Fureigh reminded the committee that this agenda item was brought to the committee's attention by Judge Beck. Mr. Fureigh contacted AAG Mollie McDonald with regard to creating a standardized form and sent her a copy of the proposed changes to the rule, even though they won't be made, so she could use those to meet with JJYS to talk about the form. Ms. McDonald e-mailed Mr. Fureigh back on April 10, 2023, and stated JJYS is willing to amend its form to comply with the statute, but that she had been told the form was owned by the court, so she needed to look into how it could be amended. Mr. Fureigh then stated there have been some updates since this time and turned the time to Mr. Murdoch to discuss and introduce the new form they have been working on.

Mr. Murdoch stated the form is a JJYS form, and he has spoken with April Graham, the Deputy Director of JJYS, about this topic. Mr. Murdoch stated they are using variations of this form, but recognizes it is a JJYS form by statute, so JJYS would need to be involved in modifying the form. Mr. Murdoch indicated they have created a proposed form as a suggestion to JJYS based on the committee's suggestions. The form was presented to the committee, and Mr. Murdoch provided an explanation for each section of the proposed form. Mr. Murdoch stated they also added a declaration at the bottom of the form declaring it is true and correct and that alternatives to detention have been considered, which was the language Judge Beck suggested. Mr. Murdoch stated if this committee would approve the form, or something similar, he would meet against with Ms. Graham and propose the suggestions as they consider modifying the form. Mr. Murdoch stated they would also be working to ensure the same form is used consistently throughout the state.

Mr. Russell stated he likes the proposed form and thinks it complies with the statute. Mr. Russell expressed some concern regarding the section in the form that requires them to list the reason the youth was admitted to detention. Mr. Russell stated that he is worried it is going to be a stumper for law enforcement until they receive training but is nothing that training can't get around. Mr. Russell also stated the detention staff helps law enforcement with the forms so it is not insurmountable, but he anticipates there will be some pushback. Ms. White stated that although not all law enforcement would know, most of them would. Mr. Russell indicated he could see new law enforcement officers not knowing if there were other options other than felony. Mr. Russell does not want to set law enforcement up. Mr. Fureigh recalls that when law enforcement takes the youth to the detention facility, the facility has a checklist there and determines which category it falls into, which is where the education is going to come from.

Ms. Ostler proposed a checkbox that lists some of the reasons why the youth is being admitted into detention. Ms. White inquired if it would be difficult to create a checklist, and Mr. Fureigh stated he believes there is already a checklist at the detention centers, so they could use that for reference. Ms. Jeffs indicated she knows when law enforcement brings a youth to detention, the detention staff does

have a checklist and is trained on what is admissible and what is not. They also have their own procedures and processes outside of the statute. Ms. Jeffs likes the idea of including a checklist to make it simpler for law enforcement and stated anything this committee can do to help law enforcement is a good endeavor. Ms. Ostler stated creating a checklist on the form would eliminate the need to rely on the detention center. Mr. Murdoch stated he can bring that up with Ms. Graham to see what that checklist would look like.

Judge Dame indicated he is worried about the checklist as it would have to be lengthy and detailed. The checklist would have to differentiate between the categories. Judge Dame stated his proposal would be to let the training process take effect and law enforcement can access the administrative code just like any member of the public can. Mr. Luchs inquired if the detention center's checklist could be attached to the back of the form. Mr. Fureigh stated if the detention center already has the checklist, law enforcement could look at it and write in the box the applicable reason. Mr. Russell indicated if every detention center has a list of bookable offenses, he is satisfied and does not think a checklist on the form is necessary. Mr. Butler stated there are approximately 30 reasons why a youth could be admitted to detention. Ms. Moore proposed that the citation to the administrative code be listed in the form. Several committee members agreed.

The committee then discussed the declaration portion of the proposed form. Mr. Russell stated the declaration complies with the Fourth Amendment and the Utah Constitution. Mr. Fureigh stated the Supreme Court did not have an issue with the declaration and believes they would agree that it is constitutionally required. Ms. Jeffs likes the sworn statement and thinks its appropriate, however, she proposed removing the language "and that alternatives to detention have been considered." Ms. Jeffs stated that information may not be in law enforcement's purview as they often don't have all the information. Ms. Jeffs further stated law enforcement's job is to investigate the crime, bring people in for appropriate reasons, and whether alternatives have been considered is statutorily important, it will be reviewed by a judge. Mr. Fureigh and Mr. Butler also agree. Mr. Murdoch will remove the language from the declaration.

Mr. Fureigh stated he will contact Ms. McDonald again to see if the detention facilities around the state are required to have a checklist. Mr. Murdoch will also bring it up with Ms. Graham and discuss that with her as well. Judge Dame stated he typically prefers going to the source of the information, which is the rule, rather than a checklist or guide that someone else prepares based on the rule. Judge Dame stated the rule is not hard to cite to, but he believes he is in the minority there. The committee agreed the citation to Utah Administrative Code R547-13 should be specifically cited in the form. Mr. Murdoch will bring a couple of options to this committee for vote. Mr. Russell also requested a copy of the checklist or list of bookable offenses that are at the detention centers.

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

Mr. Fureigh stated he went to the Supreme Court to get final approval for publishing of the changes made to Rule 22 and anticipated it would go smoothly. However, they had some additional questions and concerns. One of the changes they proposed was stylistic changes, which Mr. Gallardo had already brought up. The Supreme Court agreed with this committee to add the word “may” to line 58, which is the joint resolution with regard to reliable hearsay.

Mr. Fureigh stated the section they were most concerned about was section (j). The Supreme Court first wondered if it would be better to leave in the sentence that was stricken by this committee on line 54 rather than take it out. Mr. Fureigh reminded this committee that they decided to take it out because it repeats what is already listed in the statute. The Supreme Court also did not like that the rule cited to 504 twice, and wondered if it would be better to include the subsections in each. The Supreme Court also suggested if adding the word “other” regarding the factors on line 56 made more sense or would help clarify the rule. They also wondered if section (h) and (j) were saying the same thing. The Supreme Court inquired if there was a difference between indictment and information, and asked if they did indictments in the juvenile court, which Mr. Fureigh stated he was unsure of. Mr. Fureigh also indicated the Supreme Court felt like the rule indicated there is a two-step process and the statute appears to only be a one-step process. Mr. Fureigh stated as he read the rule and the statute, it looked like the statute was an “and” and the rule is a “if, then.” Ms. Jeffs stated the statute used to be an “if, then,” but that has now changed. The Supreme Court was worried that if someone came in and read it for the first time, there would be some confusion. Justice Pierce suggested this rule be presented to the committee again and brought back to the Supreme Court.

The committee discussed the indictment language. Mr. Russell stated the statute still says indictment, which is why it is also stated in the rule. Ms. Jeffs states information and indictment cannot be combined because there is not a need for a hearing if there is an indictment. Mr. Russell stated he thinks the language needs to be left in the rule unless the legislature removes the indictment language from the statute, and Ms. Jeffs agreed.

The committee then discussed whether the committee should look at changing section (j) to be a one-step process instead of an “if-then.” Mr. Russell stated that 504 is broken into two parts: probable cause and other factors. Mr. Fureigh responded and stated it is just one preliminary hearing and the court has to make

all those findings in that hearing. Judge Jensen stated that in practice, these are often bifurcated issues because there are different witnesses needed. Judge Jensen then stated that if she doesn't find probable cause, there is no need for the factor hearing. Mr. Russell stated these are bifurcated and they will likely always be bifurcated because there is limited testimony on probable cause versus more in-depth testimony on the other factors. Mr. Russell indicated that as Judge Jensen pointed out, the court must find probable cause first or the other evidence presented would be irrelevant. If the court says there is not probable cause, then the other factors are irrelevant. Ms. Jeffs agreed that the procedure is to find probable cause first, then move on to other factors.

Mr. Butler proposed making subsections, so line 56 and 57 make more sense. Ms. Moore agreed. Mr. Butler then proposed that instead of saying "other factors" to use the word "best interest factors." Mr. Russell stated he would leave it and just refer to the "factors." Ms. Jeffs does not like "other factors."

The committee then discussed adding subsection (3) to line 57 behind the statute citation, and (2)(a) behind the citation in line 53, due to the concerns the Supreme Court raised. The committee agreed, and also agreed that the language that had previously been stricken should remain as stricken. If the Supreme Court suggests the language be left, then this committee can change it to reflect the language in the statute that has been changed.

Mr. Fureigh stated that in looking at section (h), it should be "will" instead of "may" in line 44. Mr. Russell and Ms. Moore agreed. Judge Dame stated that in looking at the style guide, it should be "may not." Mr. Fureigh indicated that it depends on how you read the rule, if it is directing the court or saying a party can't request a hearing. Mr. Fureigh stated the assumption he made was that it was directing the court that the preliminary hearing will not be held. Ms. White stated Utah Code 80-6-504(11) talks about if a grand jury indicts a minor. Judge Dame indicated that statute deals with what happens if an indictment is filed, not filed under the statute, and he cannot find anywhere in the juvenile code that deals with how to indict a juvenile. Ms. Moore suggested putting "indictment" without a citation reference and then put 504(11) once an indictment has been filed. Judge Jensen also suggested adding subsection (3) to line 47. Mr. Butler stated that Utah Code 77-10a-3 has a broad definition regarding indictment, and it is not limited to district court. Mr. Russell believes Utah Code 77-2-2(1) gives authority to commence a prosecution by indictment in the juvenile court. Judge Dame proposed the language be changed to, "if a grand jury indicts a minor for a qualifying offense, the court will proceed in accordance with Utah Code 80-6-504(11)."

The committee discussed additional changes to Judge Dame's proposed language and determined the following language is appropriate in section (h), "If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-6-503, the court will proceed in accordance with Utah Code section 80-6-504(11)." Mr. Fureigh indicated it will likely need to go back out for comment due to the substantial changes that were made.

The changes were made to Rule 22 as suggested by the committee. Ms. Jeffs moved to adopt the changes as made by this committee. Mr. Johnson seconded the motion, and it passed unanimously.

4. Discussion & Action – Rules of Evidence and Rules of Juvenile Procedure: (All)

Mr. Fureigh stated Judge Dame was going to speak to Judge Leavitt to follow up regarding the proposed changes to the Rules of Evidence. Judge Dame indicated he spoke to Judge Leavitt and the proposed changes were presented during their April meeting, and the committee voted to send all four changes to the Supreme Court for approval to be sent out for comment. Judge Leavitt asked to be able to participate in the meeting with the Supreme Court, and to Judge Leavitt's knowledge, the meeting has not happened yet.

Mr. Fureigh stated there was a suggestion to add section (c) to Rule 27A to add the remedy that the statement would be inadmissible. Mr. Russell stated he and Mr. Yannelli believed the remedy was that it was inadmissible, and he believes it is appropriate to add the remedy to the rule. Mr. Fureigh stated Ms. Jeffs circulated the research regarding how other states handle it. Judge Dame agreed that the remedy is that the statement is inadmissible. Ms. White likes the idea of having it in the rule, and Mr. Russell agreed. The committee does not think this change would be impacted by what the Rules of Evidence committee is doing, and a proposal was made to add section (c) to include that the remedy is inadmissible in the custodial interrogation if there is failure to comply with Utah Code 80-6-206.

Mr. Russell moves to approve the amendment to Rule 27A. Ms. White seconds, and it passed unanimously. Mr. Fureigh will take it to the Supreme Court and ask that it go out for public comment.

5. Discussion & Action – Rule 10. Bail for non-resident minors: (Judge Dame; All)

Mr. Fureigh stated Rule 10 was brought to Judge Dame's attention by another judge, who noticed that the statute citations in this rule may be outdated. Mr. Fureigh stated he did not look at that very close as he is not involved in bail in his practice but knows that the statutes cited in the rule have to do with bail, so he doesn't know what has changed. Judge Dame stated Rule 10 was effective on November 1, 2002, so it hasn't been changed for quite some time. Judge Dame indicated several of the citations have been replaced or renumbered. Judge Dame

suggested a change to Line 7 and 8 to state, "Utah Code Title 77, Chapter 20, Parts 4 and 5." Judge Dame believes that would fix the concern, but indicated he has not spent a lot of time on it and would like someone else to look at the proposed language to make sure he is not missing anything. Mr. Butler is agreeable to take a closer look at it.

Judge Dame then proposed another suggested change to line 4 regarding the language, "judge, commissioner, or other court officer authorized in writing..." Judge Dame indicated there are no commissioners that he knows of in juvenile court and would propose to remove everything after judge. The committee then discussed the broad language in the statute and some other factors that may have contributed to the use of that language in the rule. After the discussion, the committee decided no change should be made to that language.

Judge Jensen inquired as to line 5 that states, "admitting the minor to bail..." The committee discussed the meaning of that term and suggested several changes to that language. Judge Dame proposed to leave the language as-is as he believes it is a two-step process. Ms. Jeffs proposed the committee change the language to make it more clear. Mr. Butler stated the reason why that language is used is because the statute defines bail as "pretrial release." Judge Jensen stated it is unclear as currently written. Ms. Verdoia stated the statute also uses the language "admitted to bail." Mr. Russell proposed to leave the language as written in the rule, so it is consistent with the statute.

6. Discussion & Action - Rule 37A. Visual recording of statement or testimony of child in abuse, neglect and delinquency proceedings - Conditions of admissibility: (All)

Mr. Fureigh stated Ms. Tilby brought this to the committee's attention and indicated that Rule 37A(a) lists substantiation proceedings, but section (b) and (c) does not. Mr. Fureigh stated the rule was last modified before he joined the committee and inquired if Ms. Verdoia recalls if there was a specific reason for excluding substantiation proceedings from those sections. Ms. Verdoia indicated she does not see any reason for excluding substantiation from those sections. Mr. Butler believes it should be added, and Mr. Luchs agreed. Mr. Fureigh stated the Rules of Evidence apply in substantiation hearings and if the minor is required to testify, he believes they would be entitled to those same protections in substantiation hearings. There was further discussion about the lower burden of proof, and Mr. Luchs indicated that would support the argument that substantiation hearings should be included in section (b) and (c).

Ms. Verdoia stated when legislation was passed adding substantiation proceedings, it was patterned after justice court proceedings, and they are supposed to be very informal. Ms. Verdoia stated due to the lower burden of proof, they are looked at of being a lesser kind of proceeding in terms of what needs to be done, such as full discovery not being required. Ms. Verdoia stated she believes it was intended that Rule 37A should include substantiation proceedings.

Mr. Luchs moved to approve the addition of substantial hearings to the title of Rule 37A, and also included in section (b) and (c). Mr. Butler seconded the motion, and Mr. Russell abstained from vote and indicated he did not have enough knowledge about it to provide a vote. The motion passed.

7. Old business/new business: (All)

Mr. Fureigh stated the agenda items that were not covered would be set over for next month's meeting. Mr. Fureigh reminded everyone that the committee does not meet in July.

The meeting adjourned at 2:00 PM. The next meeting will be held on June 2, 2023 at 12:00 PM via Webex.

TAB 2

1 **Rule 27A. Admissibility of statements given by a child.**

2 (a) The custodial interrogation of a child for an offense is governed by Utah Code section
3 80-6-206.

4 (b) The state shall retain the burden of proving by a preponderance of the evidence that
5 any waiver of the child's constitutional rights was knowing, voluntary, and satisfied the
6 requirements outlined in Utah Code section 80-6-206.

7 (c) Any statement made by a child during a custodial interrogation is inadmissible if the
8 custodial interrogation does not comply with Utah Code section 80-6-206.

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6 requirements outlined in Utah Code section 80-6-206.

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8 custodial interrogation does not comply with Utah Code section 80-6-206.

TAB 3

Rule 22. Initial appearance and preliminary ~~examination hearing~~ in cases under Utah Code sections ~~80-6-503~~ and 80-6-504.

(a) When a summons is issued in lieu of a warrant of arrest, the minor ~~shall~~must appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor ~~shall~~must be taken to a juvenile detention facility pending a detention hearing, which ~~shall~~must be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor ~~shall~~must be taken to the place designated on the warrant. If an information has not been filed, one ~~shall~~must be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor ~~shall~~must without unnecessary delay be returned to the county where the crime was committed and ~~shall~~must be taken before a judge of the juvenile court.

(d) The court ~~shall~~will, upon the minor's first appearance, inform the minor:

(1) of the charge in the information or indictment and furnish the minor with a copy;

(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(3) of the right to retain counsel or have counsel appointed by the court;

(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court ~~shall~~will, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel

and shall will allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f) The minor may not be called on to enter a plea. During the initial appearance, the minor shall will be advised of the right to a preliminary examination hearing. If the minor waives the right to a preliminary examination hearing the court shall will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(g) If the minor does not waive a preliminary examination hearing, the court shall will schedule the preliminary examination hearing. ~~The time periods of this rule may be extended by the court for good cause shown.~~ The preliminary examination hearing shall will be held within a reasonable time, but not later than 10 ~~ten~~ days after the initial appearance if the minor is in custody for the offense charged, ~~and the information is filed under Utah Code section 80-6-503.~~ The preliminary examination hearing shall will be held within a reasonable time, but not later than 30 days after the initial appearance if:

~~(1) the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503; or~~

~~(2) the minor is not in custody. The time periods of this rule may be extended by the court for good cause shown.~~

(h) ~~If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-6-503, the court will proceed in accordance with Utah Code section 80-6-504(11). A preliminary examination may not be held if the minor is indicted. If the indictment is filed under Utah Code section 80-6-503, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-503.~~

(i) A preliminary examination hearing shall will be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall will proceed first with its case. At the conclusion of the state's case, the minor may

testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(j) If from the evidence the court finds probable cause under Utah Code section 80-6-504(2)(a) ~~to believe that the crime charged has been committed, that the minor has committed it, and the information is filed under Utah Code section 80-6-503,~~ the court ~~shall~~will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504~~(2)~~(3).

(k) The finding of probable cause may be based on hearsay in whole or in part, but may not be based solely on reliable hearsay evidence admitted under Rule 1102(b)(8) of the Utah Rules of Evidence. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary ~~examination~~hearing.

(l) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court ~~shall~~will dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(m) At a preliminary ~~examination~~hearing, upon request of either party, and subject to Title 77, Chapter 38, Rights of Crime Victims Act, the court may:

(1) exclude witnesses from the courtroom;

(2) require witnesses not to converse with each other until the preliminary ~~examination~~hearing is concluded; and

(3) exclude spectators from the courtroom.

Rule 22. Initial appearance and preliminary hearing in cases under Utah Code sections 80-6-503 and 80-6-504.

(a) When a summons is issued in lieu of a warrant of arrest, the minor must appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor must be taken to a juvenile detention facility pending a detention hearing, which must be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor must be taken to the place designated on the warrant. If an information has not been filed, one must be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor must without unnecessary delay be returned to the county where the crime was committed and must be taken before a judge of the juvenile court.

(d) The court will, upon the minor's first appearance, inform the minor:

(1) of the charge in the information or indictment and furnish the minor with a copy;

(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(3) of the right to retain counsel or have counsel appointed by the court;

(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court will, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel

and will allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f) The minor may not be called on to enter a plea. During the initial appearance, the minor will be advised of the right to a preliminary hearing. If the minor waives the right to a preliminary hearing the court will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(g) If the minor does not waive a preliminary hearing, the court will schedule the preliminary hearing. The preliminary hearing will be held within a reasonable time, but not later than 10 days after the initial appearance if the minor is in custody for the offense charged. The preliminary hearing will be held within a reasonable time, but not later than 30 days after the initial appearance if the minor is not in custody. The time periods of this rule may be extended by the court for good cause shown.

(h) If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-6-503, the court will proceed in accordance with Utah Code section 80-6-504(11).

(i) A preliminary hearing will be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and will proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(j) If from the evidence the court finds probable cause under Utah Code section 80-6-504(2)(a), the court will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504(3).

(k) The finding of probable cause may be based on hearsay in whole or in part, but may not be based solely on reliable hearsay evidence admitted under Rule 1102(b)(8) of the Utah Rules of Evidence. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary hearing.

(l) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court will dismiss the information and

53 discharge the minor. The court may enter findings of fact, conclusions of law, and an
54 order of dismissal. The dismissal and discharge do not preclude the state from instituting
55 a subsequent prosecution for the same offense.

56 (m) At a preliminary hearing, upon request of either party, and subject to Title 77, Chapter
57 38, Rights of Crime Victims Act, the court may:

58 (1) exclude witnesses from the courtroom;

59 (2) require witnesses not to converse with each other until the preliminary hearing
60 is concluded; and

61 (3) exclude spectators from the courtroom.

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TAB 4

1 **Rule 10. Bail for non-resident minors.**

2 A nonresident minor taken into custody for an offense committed within the state whose
3 continued detention is not required by the court under Rule 9 may be required to post
4 bail as a condition of release pending arraignment or subsequent court proceedings. The
5 judge, commissioner, or other court officer authorized in writing may issue an order
6 admitting the minor to bail and setting the amount of bail. All subsequent matters
7 pertaining to the posting of the bail and any forfeiture shall be governed by ~~§ 77-20-1 et~~
8 ~~seq. and § 77-20b-101 et seq.~~ Utah Code Title 77, Chapter 20, Parts 4 and 5.

9

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2 A nonresident minor taken into custody for an offense committed within the state whose
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6 admitting the minor to bail and setting the amount of bail. All subsequent matters
7 pertaining to the posting of the bail and any forfeiture shall be governed by Utah Code
8 Title 77, Chapter 20, Parts 4 and 5.

9

TAB 5

JUVENILE JUSTICE MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Luz Escamilla

Cosponsors: Karen M. Peterson
Dan N. Johnson Ryan D. Wilcox
Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- addresses the use of juvenile delinquency records by public and private employers;
- requires the State Board of Education to include information about dangerous weapons in an annual report on school discipline and law enforcement action;
- modifies a reporting requirement regarding a minor found with a dangerous weapon on school grounds;
- modifies the jurisdiction of the juvenile court;
- amends provisions related to the inspection of juvenile records when a minor who is 14 years old or older is charged with a felony offense;
- defines terms related to juvenile records;
- amends and clarifies provisions regarding the vacatur of an adjudication in the juvenile court;
- clarifies the release of certain juvenile records;
- amends provisions regarding a petition for expungement of a juvenile court record

with an adjudication, including the notice and hearing requirements for the petition;

- ▶ allows for a petition for expungement of a juvenile court record consisting of nonjudicial adjustments;
- ▶ allows for a petition for expungement of a juvenile court record consisting of records of arrest, investigation, detention, and delinquency petitions;
- ▶ allows for a petition for expungement of records regarding a petition where the allegations of delinquency were found to be not true;
- ▶ allows for the automatic expungement of a successful nonjudicial adjustment completed on or after October 1, 2023;
- ▶ provides the requirements for expunging juvenile records;
- ▶ addresses the distribution of an expungement order;
- ▶ addresses agency duties regarding expungement orders;
- ▶ addresses records in the custody of the Board of Pardons and Parole, the Department of Corrections, or the Division of Child and Family Services;
- ▶ addresses the effect of an expungement order;
- ▶ provides that certain individuals may view or inspect expunged juvenile records;
- ▶ repeals statutes related to the expungement of juvenile records; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

34-52-201, as last amended by Laws of Utah 2022, Chapter 447

34-52-301, as enacted by Laws of Utah 2019, Chapter 371

53E-3-516, as last amended by Laws of Utah 2022, Chapter 399

53G-8-510, as renumbered and amended by Laws of Utah 2018, Chapter 3

55 **62A-5-308**, as last amended by Laws of Utah 2021, Chapter 261
56 **77-38-14**, as last amended by Laws of Utah 2021, Chapter 262
57 **78A-6-103**, as last amended by Laws of Utah 2022, Chapters 155, 335
58 **78A-6-209**, as last amended by Laws of Utah 2022, Chapters 335, 430
59 **78A-6-358**, as renumbered and amended by Laws of Utah 2021, Chapter 261
60 **78B-6-105**, as last amended by Laws of Utah 2021, Chapter 261
61 **80-6-1001**, as renumbered and amended by Laws of Utah 2021, Chapter 261
62 **80-6-1002**, as last amended by Laws of Utah 2022, Chapter 334

63 ENACTS:

64 **80-6-1004.1**, Utah Code Annotated 1953
65 **80-6-1004.2**, Utah Code Annotated 1953
66 **80-6-1004.3**, Utah Code Annotated 1953
67 **80-6-1004.4**, Utah Code Annotated 1953
68 **80-6-1004.5**, Utah Code Annotated 1953
69 **80-6-1006.1**, Utah Code Annotated 1953

70 RENUMBERS AND AMENDS:

71 **80-6-1001.1**, (Renumbered from 80-6-1003, as enacted by Laws of Utah 2021, Chapter
72 261)

73 REPEALS:

74 **80-6-1004**, as last amended by Laws of Utah 2022, Chapter 334
75 **80-6-1005**, as renumbered and amended by Laws of Utah 2021, Chapter 261
76 **80-6-1006**, as renumbered and amended by Laws of Utah 2021, Chapter 261

77

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

79 Section 1. Section **34-52-201** is amended to read:

80 **34-52-201. Public employer requirements.**

81 (1) A public employer may not exclude an applicant from an initial interview because

of a past criminal conviction or juvenile delinquency adjudication.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction or juvenile delinquency adjudication;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction or juvenile delinquency adjudication; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction or juvenile delinquency adjudication.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal or juvenile delinquency history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction or juvenile delinquency history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) to an applicant with a criminal conviction if federal, state, or local law, including corresponding administrative rules, requires the consideration of ~~an~~ the applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

- 110 (f) to the Department of Alcoholic Beverage Services created in Section [32B-2-203](#);
111 (g) to the State Tax Commission;
112 (h) to a public employer whose primary purpose is performing financial or fiduciary
113 functions; and
114 (i) to a public transit district hiring or promoting an individual for a safety sensitive
115 position described in Section [17B-2a-825](#).

116 Section 2. Section **34-52-301** is amended to read:

117 **34-52-301. Permitted applicant response regarding expunged criminal or juvenile**
118 **delinquency history.**

119 An applicant seeking employment from a private employer may answer a question
120 related to an expunged criminal or juvenile delinquency record as though the action underlying
121 the expunged criminal or juvenile delinquency record never occurred.

122 Section 3. Section **53E-3-516** is amended to read:

123 **53E-3-516. School disciplinary and law enforcement action report -- Rulemaking**
124 **authority.**

125 (1) As used in this section:

126 (a) "Dangerous weapon" means the same as that term is defined in Section [53G-8-510](#).

127 [~~(a)~~] (b) "Disciplinary action" means an action by a public school meant to formally
128 discipline a student of that public school that includes a suspension or expulsion.

129 [~~(b)~~] (c) "Law enforcement agency" means the same as that term is defined in Section
130 [77-7a-103](#).

131 [~~(c)~~] (d) "Minor" means the same as that term is defined in Section [~~53G-6-201~~]
132 [80-1-102](#).

133 [~~(d)~~] (e) "Other law enforcement activity" means a significant law enforcement
134 interaction with a minor that does not result in an arrest, including:

- 135 (i) a search and seizure by an SRO;
136 (ii) issuance of a criminal citation;
137 (iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

~~[(e)]~~ (f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

~~[(f)]~~ (g) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequential, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

~~[(g)]~~ (h) "[~~Student~~] School resource officer" or "SRO" means the same as that term is defined in Section [53G-8-701](#).

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; ~~[and]~~

(c) disciplinary actions~~[-];~~ and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

- (a) the number of arrests of a minor, including the reason why the minor was arrested;
- (b) the number of other law enforcement activities, including the following information for each incident:
 - (i) the reason for the other law enforcement activity; and
 - (ii) the type of other law enforcement activity used;
- (c) the number of disciplinary actions imposed, including:
 - (i) the reason for the disciplinary action; and
 - (ii) the type of disciplinary action;
- (d) the number of SROs employed; ~~and~~
- (e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section [53G-9-601](#), bullying, hazing, cyber-bullying, or retaliation[-]; and
- (f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

- (a) age;
 - (b) grade level;
 - (c) race;
 - (d) sex; and
 - (e) disability status.
- (6) Information included in the annual report described in Subsection (2) shall comply with:
- (a) Chapter 9, Part 3, Student Data Protection;
 - (b) Chapter 9, Part 2, Student Privacy; and
 - (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2) in accordance with Section [53E-1-203](#) for incidents that occurred during the previous school year.

Section 4. Section **53G-8-510** is amended to read:

53G-8-510. Notification of dangerous weapons on school grounds -- Immunity from civil and criminal liability.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "Minor" means the same as that term is defined in Section [80-1-102](#).

(c) "School employee" means an individual working in the individual's capacity as:

(i) a school teacher;

(ii) a school staff member;

(iii) a school administrator; or

(iv) an individual:

(A) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(B) who works on a school campus.

(d) "School is in session" means the same as that term is defined in Section [53E-3-516](#).

(e) "School-sponsored activity" means the same as that term is defined in Section [53E-3-516](#).

(2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under Subsection (2), the principal shall notify:

(a) a law enforcement officer or agency; and

(b) school or district personnel if the principal determines that school or district personnel should be informed.

~~[(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.]~~

[~~(2)~~] (4) A person who in good faith reports information under Subsection [~~(1)~~] (2) or (3) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 5. Section **62A-5-308** is amended to read:

62A-5-308. Commitment -- Individual who is under 18 years old.

(1) The director of the division, or the director's designee, may commit an individual under 18 years old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

(a) an emergency commitment in accordance with Section [62A-5-311](#); or

(b) involuntary commitment in accordance with Section [62A-5-312](#).

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section [62A-5-312](#).

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection [~~78A-6-103(2)(f)~~] [78A-6-103\(2\)\(a\)\(vi\)](#).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 6. Section **77-38-14** is amended to read:

77-38-14. Notice of expungement petition -- Victim's right to object.

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a

petition for expungement under Section 77-40a-305 or ~~[80-6-1004]~~ 80-6-1004.1 and the procedures for obtaining notice of the petition.

(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement, shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40a-305 and ~~[80-6-1004]~~ 80-6-1004.1.

Section 7. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over:

278 (a) any proceeding concerning:

279 ~~[(a)]~~ (i) a child who is an abused child, neglected child, or dependent child;

280 ~~[(b)]~~ (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2,

281 Child Protective Orders;

282 ~~[(c)]~~ (iii) the appointment of a guardian of the individual or other guardian of a minor

283 who comes within the court's jurisdiction under other provisions of this section;

284 ~~[(d)]~~ (iv) the emancipation of a minor in accordance with Title 80, Chapter 7,

285 Emancipation;

286 ~~[(e)]~~ (v) the termination of parental rights in accordance with Title 80, Chapter 4,

287 Termination and Restoration of Parental Rights, including termination of residual parental

288 rights and duties;

289 ~~[(f)]~~ (vi) the treatment or commitment of a minor who has an intellectual disability;

290 ~~[(g)]~~ (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in

291 accordance with Section 30-1-9;

292 ~~[(h)]~~ (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

293 ~~[(i)]~~ (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

294 ~~[(j)]~~ (x) the treatment or commitment of a child with a mental illness;

295 ~~[(k)]~~ (xi) the commitment of a child to a secure drug or alcohol facility in accordance

296 with Section 62A-15-301;

297 ~~[(l)]~~ (xii) a minor found not competent to proceed in accordance with Title 80, Chapter

298 6, Part 4, Competency;

299 ~~[(m)]~~ (xiii) de novo review of final agency actions resulting from an informal

300 adjudicative proceeding as provided in Section 63G-4-402;

301 ~~[(n)]~~ (xiv) adoptions conducted in accordance with the procedures described in Title

302 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order

303 terminating the rights of a parent and finds that adoption is in the best interest of the child;

304 ~~[(o)]~~ (xv) an ungovernable or runaway child who is referred to the juvenile court by the

305 Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of

Juvenile Justice Services, the child has demonstrated that the child:

~~[(t)]~~ (A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others;

or

~~[(t)]~~ (B) has run away from home; and

~~[(p)]~~ (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court[-];

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701[-] for the juvenile court to exercise jurisdiction under Subsection ~~[(2)(p)]~~ (2)(a)(xvi), (b), or (c).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 8. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties

in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26,

Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) (a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

~~[(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.]~~

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by

the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 9. Section **78A-6-358** is amended to read:

78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection [~~78A-6-103(2)(n)~~] 78A-6-103(2)(a)(xiv);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);

(e) an order establishing paternity under Subsection 78A-6-104(1)(a)(i); and

(f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 10. Section **78B-6-105** is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) An adoption proceeding shall be commenced by filing a petition in:

(a) the district court in the district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, the district court in the district where:

(i) the adoptee was born;

- 418 (ii) the adoptee resides on the day on which the petition is filed; or
419 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;
420 or
421 (c) the juvenile court as provided in Subsection [~~78A-6-103(2)(m)~~]
422 78A-6-103(2)(a)(xiv) and Section 78A-6-350.
423 (2) All orders, decrees, agreements, and notices in an adoption proceeding shall be
424 filed with the clerk of the court where the adoption proceeding is commenced under Subsection
425 (1).
426 (3) A petition for adoption:
427 (a) may be filed before the birth of a child;
428 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
429 the purpose of adoption; and
430 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
431 the home of the petitioners for the purpose of adoption, unless:
432 (i) the time for filing has been extended by the court; or
433 (ii) the adoption is arranged by a child-placing agency in which case the agency may
434 extend the filing time.
435 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
436 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
437 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
438 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.
439 (b) The notice may not include the name of:
440 (i) a prospective adoptive parent; or
441 (ii) an unmarried mother without her consent.
442 (5) Service of notice described in Subsection (6) shall vest the court with jurisdiction
443 over the person served in the same manner and to the same extent as if the person served was
444 served personally within the state.
445 (6) In the case of service outside the state, service completed not less than five days

before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 11. Section **80-6-1001** is amended to read:

80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

(2) (a) "Agency" means a state, county, or local government entity that generates or maintains records ~~[relating to a nonjudicial adjustment or an adjudication]~~ for which expungement may be ordered under this part.

(b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for purposes of this part.

(3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.

(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, or Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

~~[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.]~~

Section 12. Section **80-6-1001.1**, which is renumbered from Section 80-6-1003 is renumbered and amended to read:

~~[80-6-1003].~~ **80-6-1001.1. Court records -- Abstracts.**

474 ~~[(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is~~
475 ~~expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be~~
476 ~~destroyed by an agency.]~~

477 ~~[(b) A record of a minor's fingerprints may not be destroyed by an agency.]~~

478 ~~[(2)]~~ (1) A court or agency with custody of an individual's record related to an offense
479 that the individual is alleged to have committed, or an offense that the individual committed,
480 before the individual was 18 years old may not disclose the record to a federal agency that is
481 responsible for criminal justice research or proceedings unless the court or the agency is
482 required to share the record under state or federal law.

483 ~~[(3)]~~ (2) An abstract of a ~~[juvenile court]~~ record for ~~[an]~~ a minor's adjudication of a
484 traffic offense shall be submitted to the Department of Public Safety as provided in Section
485 53-3-218.

486 Section 13. Section **80-6-1002** is amended to read:

487 **80-6-1002. Vacatur of an adjudication.**

488 (1) ~~[(a) An individual who has been adjudicated under this chapter may petition the~~
489 ~~juvenile court for vacatur of the individual's juvenile court records and any related records in~~
490 ~~the custody of an agency if the record relates to:]~~

491 ~~[(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or]~~

492 ~~[(ii) an adjudication that was based on an offense that the petitioner engaged in while~~
493 ~~subject to force, fraud, or coercion, as defined in Section 76-5-308;]~~

494 (a) An individual who has been adjudicated for an offense by the juvenile court may
495 petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation
496 of:

497 (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human
498 trafficking for labor while subject to force, fraud, or coercion;

499 (ii) Section 76-10-1302, prostitution;

500 (iii) Section 76-10-1304, aiding prostitution; or

501 (iv) Section 76-10-1313, sexual solicitation.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any ~~[documents]~~ records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the ~~[county attorney or, if within a prosecution district, the district attorney]~~ prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

~~[(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and]~~

~~[(iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.]~~

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

~~[(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative,]~~

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

~~[(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.]~~

~~[(b) (i)]~~ (3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication.

~~[(ii) (A)]~~ (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

~~[(B)]~~ (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

~~[(iii)]~~ (4) If the petition ~~[is for vacatur of any adjudication under Section 76-10-1302; 76-10-1304, or 76-10-1313]~~ seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

~~[(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official]~~

(5) (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

~~[(4)]~~ (6) (a) The petitioner shall be responsible for service of the vacatur and expungement order ~~[of vacatur]~~ to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or ~~[sealing]~~ expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only ~~[vacate]~~ expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7) (a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

~~[(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.]~~

~~[(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.]~~

~~[(6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:]~~

[~~(a) Section 76-5-202, aggravated murder; or~~]

[~~(b) Section 76-5-203, murder.~~]

Section 14. Section **80-6-1004.1** is enacted to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver --

Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

614 (b) (i) The juvenile court shall provide a victim with the opportunity to request notice
615 of a petition described in Subsection (1).

616 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice
617 of the petition at least 30 days before the day on which the hearing is scheduled if, before the
618 day on which an expungement order is made, the victim, or the victim's next of kin or
619 authorized representative if the victim is a child or an individual who is incapacitated or
620 deceased, submits a written and signed request for notice to the juvenile court in the judicial
621 district in which the offense occurred or judgment is entered.

622 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition
623 and any statutes and rules applicable to the petition.

624 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who
625 may have relevant information about the petitioner may testify.

626 (d) The juvenile court may waive the hearing for the petition if:

627 (i) (A) there is no victim; or

628 (B) if there is a victim, the victim agrees to the waiver; and

629 (ii) the prosecuting attorney agrees to the waiver.

630 (5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition
631 described in Subsection (1) and order expungement of the petitioner's juvenile record if the
632 juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in
633 accordance with Subsection (5)(b).

634 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile
635 court shall consider:

636 (i) whether expungement of the petitioner's juvenile record is in the best interest of the
637 petitioner;

638 (ii) the petitioner's response to programs and treatment;

639 (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

640 (iv) the petitioner's behavior subsequent to adjudication;

641 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;

and

(vi) if the petitioner is a restricted person under Subsection [76-10-503](#)(1)(a)(iv) or

(b)(ii):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section [76-5-202](#), aggravated murder; or

(ii) Section [76-5-203](#), murder.

Section 15. Section **80-6-1004.2** is enacted to read:

80-6-1004.2. Petition to expunge nonjudicial adjustment -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of nonjudicial adjustments;

(b) the individual's juvenile record is not eligible for automatic expungement under Section [80-6-1004.5](#); and

670 (c) the individual has reached 18 years old.

671 (2) If the juvenile court finds and states on the record the reason why the waiver is
672 appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a
673 petition.

674 (3) Except as provided in Subsection (4), the juvenile court shall grant a petition
675 described in Subsection (1) and order expungement of the petitioner's juvenile record.

676 (4) The juvenile court may not grant a petition described in Subsection (1) and order
677 expungement of the petitioner's juvenile record if:

678 (a) there are delinquency or criminal proceedings pending against the petitioner; or

679 (b) the petitioner has not satisfied restitution that was a condition of a nonjudicial
680 adjustment in the petitioner's juvenile record.

681 Section 16. Section **80-6-1004.3** is enacted to read:

682 **80-6-1004.3. Petition to expunge arrest, investigation, detention, or delinquency**
683 **petition -- Screening -- Order.**

684 (1) An individual may petition the juvenile court for an order to expunge the
685 individual's juvenile record if:

686 (a) the individual's juvenile record consists solely of records of arrest, investigation,
687 detention, or petitions that did not result in adjudication;

688 (b) the individual was not adjudicated for an offense in the juvenile court; and

689 (c) the individual has reached 18 years old.

690 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection
691 (1), the petition shall include a criminal history report obtained from the Bureau of Criminal
692 Identification in accordance with Section [53-10-108](#).

693 (3) If the juvenile court finds and states on the record the reason why the waiver is
694 appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a
695 petition.

696 (4) (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall
697 notify the prosecuting attorney that the petition has been filed.

(b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.

(5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:

(a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;

(b) resulted in all charges in the case being dismissed with prejudice;

(c) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement; or

(d) is barred from prosecution by the statute of limitations.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Section 17. Section **80-6-1004.4** is enacted to read:

80-6-1004.4. Petition to expunge petition not found to be true -- Order.

(1) An individual may petition the juvenile court, at any time, for an order to expunge all records in the individual's juvenile record pertaining to an incident where a petition was filed if:

(a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;

(b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;

(c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and

(d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section [53-10-108](#).

(3) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Section 18. Section **80-6-1004.5** is enacted to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section [41-6a-502](#), driving under the influence;

(b) Section [76-5-112](#), reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section [76-5-206](#), negligent homicide;

(d) Section [76-9-702.1](#), sexual battery;

(e) Section [76-10-505.5](#), possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section [76-10-509](#), possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never

754 have occurred if:

755 (i) the individual has reached 18 years old;

756 (ii) the individual has satisfied restitution that was a condition of any nonjudicial
757 adjustment in the individual's juvenile record; and

758 (iii) the nonjudicial adjustment was for an offense that is not an offense described in
759 Subsection (2); and

760 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though
761 there never was a nonjudicial adjustment.

762 Section 19. Section **80-6-1006.1** is enacted to read:

763 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
764 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

765 (1) This section applies to an expungement order under Section [80-6-1004.1](#),
766 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

767 (2) The juvenile court may not order:

768 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
769 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
770 that the juvenile court may order the Board of Pardons and Parole and the Department of
771 Corrections to restrict access to a record if the record is specifically identified in the
772 expungement order as a record in the possession of the Board of Pardons and Parole or the
773 Department of Corrections; or

774 (b) the Division of Child and Family Services to expunge a record in an individual's
775 juvenile record that is contained in the Management Information System or the Licensing
776 Information System unless:

777 (i) the record is unsupported; or

778 (ii) after notice and an opportunity to be heard, the Division of Child and Family
779 Services stipulates in writing to expunging the record.

780 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
781 copy of the expungement order to any affected agency or official identified in the juvenile

782 record.

783 (b) An individual who is the subject of an expungement order may deliver copies of the
784 expungement order to all agencies and officials affected by the expungement order.

785 (4) (a) Upon receipt of an expungement order, an agency shall:

786 (i) to avoid destruction or expungement of records in whole or in part, expunge only
787 the references to the individual's name in the records relating to the individual's adjudication,
788 nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is
789 ordered; and

790 (ii) destroy all photographs and records created under Section 80-6-608, except that a
791 record of a minor's fingerprints may not be destroyed by an agency.

792 (b) An agency that receives a copy of an expungement order shall mail an affidavit to
793 the individual who is the subject of the expungement order, or the individual's attorney, that the
794 agency has complied with the expungement order.

795 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the
796 Department of Corrections:

797 (a) may not disclose records expunged in an expungement order unless required by
798 law;

799 (b) are not required to destroy any photograph or record created under Section
800 80-6-608;

801 (c) may use an expunged record for purposes related to incarceration and supervision
802 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
803 purpose of making decisions about:

804 (i) the treatment and programming of the individual;

805 (ii) housing of the individual;

806 (iii) applicable guidelines regarding the individual; or

807 (iv) supervision conditions for the individual;

808 (d) are not prohibited from disclosing or sharing any information in an expunged
809 record with another agency that uses the same record management system as the Board of

Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (4)(b).

(6) Upon entry of an expungement order:

(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.

(7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject of the record.

Section 20. **Repealer.**

This bill repeals:

Section [80-6-1004](#), **Requirements to apply to expunge an adjudication.**

Section [80-6-1005](#), **Nonjudicial adjustment expungement.**

Section [80-6-1006](#), **Effect of an expunged record -- Agency duties.**

Section 21. **Effective date.**

This bill takes effect on October 1, 2023.

Rule 17. The petition.

(a) Delinquency cases.

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

(2) For all non-felony-level offenses, the petition shall state the specific condition that allows the filing of the petition pursuant to Utah Code section 80-6-304.

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

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

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

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

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

(4) A petition for termination of parental rights shall also include, to the best information or belief of the petitioner: the name and residence of the petitioner; the sex and place of birth of the minor; the relationship of the petitioner to the minor; the dates of the birth of the minor's parents; and the name and address of the person having legal custody or guardianship, or acting in loco parentis to the minor, or the organization or agency having legal custody or providing care for the minor.

(c) Other cases.

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

(2) Petitions for adjudication expungements must meet all of the criteria of Utah Code section 80-6-1004 and shall state: the name, age, and residence of the petitioner. Petitions for expungement must be accompanied by an original criminal history report obtained from the Bureau of Criminal Identification and proof of service upon the County Attorney, or within a prosecution district, the District Attorney for each jurisdiction in which an adjudication occurred prior to being filed with the Clerk of Court.

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

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

53 prosecution district, the District Attorney for each jurisdiction in which an
54 adjudication occurred prior.

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

Rule 56. Expungement.

(a) Any individual who has been adjudicated delinquent by a juvenile court may petition the court for an order expunging and sealing the records pursuant to Utah Code section 80-6-1001, et. seq.

(b) Adjudication expungement.

(1) Upon filing the petition, the clerk shall calendar the matter for hearing and give at least 30 days' notice to the prosecuting attorney, the Juvenile Probation Department, the agency with custody of the records, and any victim or victim's representative of record on each adjudication identified by petitioner as being subject to expungement who have requested in writing notice of further proceedings. The petitioner may be required to obtain and file verifications from local law enforcement agencies in every community in which the petitioner has resided stating whether petitioner has a criminal record.

(2) If the court finds, upon hearing, that the conditions for expungement under Utah Code section 80-6-1004 have been satisfied, the court shall order the records of the case sealed as provided in Utah Code section 80-6-1004.

(c) Nonjudicial expungement. A person whose juvenile record consists solely of nonjudicial adjustments, as provided for in Utah Code section 80-6-304, may petition the court for expungement as provided for in Utah Code section 80-6-1005.

(d) The clerk shall provide certified copies of the executed order of expungement, at no cost, to the petitioner and the petitioner shall deliver a copy of the order to each agency in the State of Utah identified in the order.

TAB 6

Rule 52. Appeals.

(a) Except as otherwise provided by law, an appeal may be taken from the juvenile court to the Court of Appeals from a final judgment, order, or decree by filing a Notice of Appeal with the clerk of the juvenile court within 30 days after the entry of the judgment, order, or decree appealed from.

(b) Appeals taken from juvenile court orders related to abuse, neglect, dependency, termination and restoration of parental rights, and adoption proceedings must be filed within 15 days of the entry of the order appealed from. In non-delinquency cases, a Notice of Appeal of a party who is not a minor or a state agency must be signed by each party himself or herself.

(c) An appeal from an interlocutory order may be sought by any party by filing a petition for permission to appeal from the interlocutory order with the Court of Appeals within 21 days after the entry of the order of the juvenile court.

(d) The Utah Rules of Appellate Procedure shall will or must govern the appeal process, including preparation of the record and transcript.

(e) No separate order of the juvenile court directing a county to pay transcript costs is required to file a Request for Transcript in an appeal by an impecunious party who was represented during the juvenile court proceedings by court-appointed counsel.

(f) A party claiming entitlement to court-appointed counsel has a continuing duty to inform the court of any material changes that affect indigent status. If at any stage in the trial or appellate proceedings the court makes a finding that a party does not qualify, or no longer qualifies for indigent status, the court may order the party to reimburse the county or municipality for the reasonable value of the services rendered, including all costs.

Rule 52. Appeals.

(a) Except as otherwise provided by law, an appeal may be taken from the juvenile court to the Court of Appeals from a final judgment, order, or decree by filing a Notice of Appeal with the clerk of the juvenile court within 30 days after the entry of the judgment, order, or decree appealed from.

(b) Appeals taken from juvenile court orders related to abuse, neglect, dependency, termination and restoration of parental rights, and adoption proceedings must be filed within 15 days of the entry of the order appealed from. In non-delinquency cases, a Notice of Appeal of a party who is not a minor or a state agency must be signed by each party himself or herself.

(c) An appeal from an interlocutory order may be sought by any party by filing a petition for permission to appeal from the interlocutory order with the Court of Appeals within 21 days after the entry of the order of the juvenile court.

(d) The Utah Rules of Appellate Procedure will govern the appeal process, including preparation of the record and transcript.

(e) No separate order of the juvenile court directing a county to pay transcript costs is required to file a Request for Transcript in an appeal by an impecunious party who was represented during the juvenile court proceedings by court-appointed counsel.

(f) A party claiming entitlement to court-appointed counsel has a continuing duty to inform the court of any material changes that affect indigent status. If at any stage in the trial or appellate proceedings the court makes a finding that a party does not qualify, or no longer qualifies for indigent status, the court may order the party to reimburse the county or municipality for the reasonable value of the services rendered, including all costs.