



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

Meeting Agenda

David W. Fureigh, Chair

Location: Matheson Courthouse, Salt Lake City, UT

Date: May 5, 2023

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of April 7, 2023, meeting minutes.	Tab 1	David Fureigh
Discussion: JJYS Juvenile Referral and Request for Detention Form. <ul style="list-style-type: none"><i>The JJYS booking sheets differ across the state and do not conform with the requirements outlined in 80-6-203. An update will be provided.</i>		Blake Murdoch David Fureigh
Discussion & Action: Rule 22 . Initial appearance at preliminary examination in cases under Utah Code section 80-6-503. <ul style="list-style-type: none"><i>Rule 22 was recently presented to the Supreme Court for final approval for publication. David Fureigh will share feedback received from the Supreme Court.</i>	Tab 2	All
Discussion & Action: Rules of Evidence and Rules of Juvenile Procedure. <ul style="list-style-type: none"><i>U.R.E. Amendments proposed by Judge Michael Leavitt.</i><i>Review of states with additional protections for children during custodial interrogations.</i><i>URJP 27A. Amend to include criteria addressing inadmissibility of statements during custodial interrogations.</i>	Tab 3	All

Discussion & Action: Rule 10 . Bail for non-resident minors. <ul style="list-style-type: none"> <i>References to statute in Rule 10 may need to be updated.</i> 	Tab 4	Judge Dame All
Discussion & Action: Rule 37A . Visual recording of statement or testimony of child in abuse, neglect, and delinquency proceedings - Conditions of admissibility. <ul style="list-style-type: none"> <i>Rule 37A mentions substantiation proceedings in paragraph (a) but not in (b) and (c). Should sections (b) and (c) also include substantiation proceedings?</i> 	Tab 5	All Kiley Tilby
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: H. B. 60 : Juvenile Justice Modifications. <ul style="list-style-type: none"> <i>House Bill 60 makes amendments to the juvenile expungement statute.</i> <i>Do the references to statute in Rule 17 and Rule 56 need to be updated?</i> 	Tab 7	All
Discussion: Old business or new business		All

[URJP Committee Site](#)

Meeting Schedule:

June 2, 2023

October 6, 2023

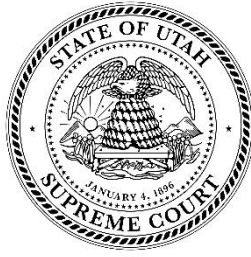
August 4, 2023

November 3, 2023

September 1, 2023

December 1, 2023

TAB 1



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

Draft Meeting Minutes

David W. Fureigh, Chair

Location: Webex Meeting

Date: April 7, 2023

Time: 12:00 p.m. – 2:00 p.m.

<u>Attendees:</u> David Fureigh, Chair Judge Paul Dame William Russell Janette White Mikelle Ostler Chris Yannelli Judge Debra Jensen Sophia Moore Michelle Jeffs Carol Verdoia, Emeritus Member	<u>Excused Members:</u> Kristin Fadel Jordan Putnam Matthew Johnson Arek Butler
	<u>Guests:</u> Michael Cipriano, Office of Legislative Research and General Counsel
<u>Staff:</u> Raymundo Gallardo Kiley Tilby, Recording Secretary Joseph Rivera De La Vega, Juvenile Court Law Clerk	

1. Welcome and approval of the March 3, 2023 Meeting Minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the March 3, 2023, meeting minutes. Judge Jensen moved to approve the minutes. Sophia Moore seconded the motion, and it passed unanimously.

2. Discussion & Action – Rule 18. Summons; service of process; notice: (All)

Mr. Fureigh stated the proposed rule went out for comment and only one comment was received. The comment stated the language regarding bilingual notice is vague, and that it should outline the two languages. Mr. Fureigh does not believe that makes any difference and asked for further discussion from the committee. There was no further discussion from the committee. Mr. Fureigh asked for a motion and second to take it to the Supreme Court for approval and publication. Judge Dame moved to submit for approval and publication, and William Russell seconded the motion. It passed unanimously.

Mr. Fureigh then requested volunteers from the committee to help create the language in the summons for the form. Mikelle Ostler volunteered as the clerical representative on the committee. Raymundo Gallardo indicated they just need a few volunteers to tailor the form to juvenile court specific matters that is consistent with juvenile court law. Mr. Gallardo indicates the plan is to get some dates from the volunteers to meet with the forms committee to draft the form. He will then take the form to their committee to get it approved. Mr. Gallardo would like to meet within the next few weeks. Janette White will also volunteer to help create the form.

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

Mr. Fureigh stated the committee first started working with this rule to fix some of the language regarding timing and when preliminary hearings should be held based on whether youth were being held in detention or not. After amending the rule, it was approved by the Supreme Court and sent out for public comment. The proposed rule was then approved by this committee to be submitted to the Supreme Court for final publication. A few days prior to taking it back to the Supreme Court, this committee learned about a joint resolution where the rule would be further amended so the committee decided to wait and see what happened with the proposed joint resolution. Mr. Fureigh represents there have been further amendments that have to do with the hearsay portion of the rule and the type of hearsay that is allowed at the preliminary hearing.

Mr. Fureigh inquired of Mr. Gallardo if the language had already been approved and whether this committee needed to take it in front of the Supreme Court or another committee. Mr. Gallardo responded that the language has already been approved and is effective May 3, 2023, based on the legislature path of the joint resolution. That will be presented to the legal department, and they will publish it to provide notice. Mr. Gallardo said he wanted to present the amendment that was made by the legislature so the committee could see what it looks like with the other amendments previously made by this committee. Mr. Gallardo was hoping it could be approved by this committee this month so they could have the amendments by this committee and the amendments by the legislature be effective on May 3, 2023.

Mr. Fureigh asked the committee for a motion and second to submit it to the Supreme Court. Judge Dame suggested in Line 57 where it says, “but not” to state “but may not” so it mirrors the language in 1102. Mr. Fureigh indicated this committee cannot make that change as it was part of the joint resolution, but he can make that suggestion to the Supreme Court to add it. Judge Dame made a motion to submit the proposed changes to the rule to the Supreme Court for publication. Janette White seconded the motion, and it passed unanimously.

Mr. Yannelli indicated he thinks the amendment should have been “The finding of probable cause may be based on hearsay, in whole or in part...” but he knows he does not get a say.

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

Mr. Fureigh reminded the committee that this issue was carried over due to pending legislation on the issue. Mr. Fureigh stated SB 49 passed, but HB 404 did not pass. Mr. Fureigh turned the time over to Mr. Yannelli to state where he believes the issue is at this point.

Mr. Yannelli indicated he did not know where he is now with the changes that have been made, but suggested Rule 616 of the Utah Rules of Evidence does not need to apply in juvenile court because there is a rule specifically dealing with custodial interrogation of minors (Rule 27A). Mr. Yannelli stated last time this committee met, Mr. Russell pulled up HB 404, which dealt with a proposal to make a video or audio recording of custodial interrogations to mimic Utah Rules of Evidence 616, so this committee decided to wait until this meeting to see if that passed. HB 404 did not pass. SB 49, however, did pass and there were some changes there regarding custodial interrogations.

Mr. Yannelli stated SB 49 changed Utah Code 80-6-206 with additions. The juvenile rule on admissibility, Rule 27A, already referenced 80-6-206, so he believes since there was a proposal in HB 404 to say there should be a video recording and that did not pass, that Rule 616 of the Utah Rules of Evidence does not apply in the juvenile court and Rule 27A and Utah Code 80-6-206 do apply. Mr. Yannelli thinks this committee needs to move forward and outline that since the Utah Rules of Evidence do apply in juvenile court, Rule 616 should be excluded from the applicability in juvenile court.

Judge Dame indicated the Utah Courts website uses the term “minor” in Rule 27A, but Westlaw and Nexus say “child.” Judge Dame inquired if this committee could contact someone who handles the Utah Court’s website and let them know that is an error and should say “admissibility of evidence given by a child.” Mr. Gallardo will bring that up and believes it can be a simple fix. Mr. Gallardo was able to locate the last amendment to Rule 27A in January 2022 and it was changed to “child,” so he will get that fixed.

Judge Dame stated the other question he had was Rule 616 of the Rules of Evidence deals with admissibility. The title of 27A seems to deal with admissibility, but there is nothing in the body of the rule that does. Judge Dame stated the inference could be made, but it might be helpful for the sake of clarity to add something to the end of Rule 27A that any failure to comply with the provisions in Utah Code 80-6-206 means it is not admissible. With that addition, Judge Dame agreed that Rule 616 would not apply, but that is the only gap that he sees. Judge Dame inquired of the committee if anyone else had that same concern. Mr. Fureigh said he believed that was assumed based on the title. Mr. Yannelli stated he does think Rule 27A was trying to say that if you comply with the statute, it is admissible.

Michelle Jeffs indicated the statute should specifically state the remedy. Ms. Jeffs noted that other states have that language, and she personally believes it should be in the statute and not in the rule. Judge Dame stated they likely did not put it in the statute because they felt it would be overstepping their mandate which is reserved for the Supreme Court.

Mr. Yannelli asked the committee if others agreed with his assessment that Rule 616 of the Utah Rules of Evidence is not applicable in juvenile court because Rule 27A and Utah Code 80-6-206 govern. Mr. Yannelli also inquired if this committee needs to specifically state that Rule 616 of the Utah Rules of Evidence does not apply to juvenile court. Mr. Fureigh does not believe this committee needs to specifically identify that because he anticipates the change to the language in the Utah Rules of Evidence would be that the rule applies unless the juvenile rules address it. Since there is already a rule that addresses that issue, Mr. Fureigh does not think anything further needs to be added as he agrees that Rule 27A applies and Rule 616 of the Rules of Evidence does not apply in juvenile court.

Judge Dame suggested this committee may want to look at amending Rule 43 of the juvenile rules to specifically outline that Rule 616 does not apply. Mr. Fureigh stated his thought was that Rule 43 and the language in the Rules of Evidence

already does that. Mr. Fureigh expressed concern that if this committee specifically excludes Rule 616, he can see someone going in and making the argument that because it was not specifically excluded all others must apply. Judge Jensen thought Judge Leavitt was seeking to amend the language that all the Rules of Evidence would apply to the juvenile court unless outlined otherwise in the juvenile rules. Judge Jensen believed they anticipated all the Rules of Evidence to apply unless this committee thought otherwise. If there was a rule that this committee thought should not apply, they should specifically state it.

Carol Verdoia stated that the language in Rule 43 of the Rules of Juvenile Procedure outlines that except as otherwise set forth herein, the juvenile court adheres to the Utah Rules of Evidence. That language is supposed to indicate that if there is a juvenile court rule that addresses it, we don't have to comply with the evidentiary rule that also addresses it which has been done in other areas. Ms. Verdoia provided the example that the Rules of Civil Procedure apply unless there is a juvenile rule that is specific. Ms. Verdoia outlines that this committee has never gone in and listed every single civil procedure rule that doesn't apply but expects that when there is a conflict between the two, we go with the juvenile rule. If the committee specifically excludes Rule 616, this committee will also need to do it for every single rule for all the other rules that this committee doesn't think should apply.

Judge Dame stated that he saw the issue regarding the Rules of Evidence differently because of the changes that were being proposed by Judge Leavitt to the language. Judge Dame was under the impression that this committee was supposed to go through and determine which rule(s) in the Rules of Evidence should not apply to juvenile court. Ms. Verdoia responded that this committee then must go in and list every single evidentiary rule that does not apply and not just Rule 616. Judge Dame believes the only one that has been discussed that does not apply to juvenile court is Rule 616 and believed that was the process moving forward. Ms. Verdoia stated this committee then needs to go through the civil rules to make it consistent with the way these rules are set up.

Mr. Russell thinks Judge Jensen's point is well taken. If he recalls, the entire hornet's nest was set up because of the change to the language in Rule 412 of the Utah Rules of Evidence because of specific language of many of these rules (rule 616, 412, etc.) that use exemptive language to criminal court. The specific exclusion outlined in Rule 412 led to Judge Leavitt's suggestion that defendant also means juvenile and criminal cases also means juvenile cases. This is what set up the hornet's nest because of the big debate about whether the criminal rape shield applied, but Rule 616 suffers from the same difficulty. Mr. Russell stated that Judge Leavitt's proposed changes have not been made, which means accused juvenile does not mean defendant and juvenile delinquency does not mean criminal proceeding yet. Mr. Russell thinks Rule 616 should apply and it currently does not as the language is written right now. Until the change is made by the Rules of Evidence committee, we are going to be stuck with the dichotomy between juvenile and felony adult prosecution. Rule 616 should be addressed by this committee in the future as to whether to import the protections of juvenile

interrogation to be recorded in some way like adult interrogations. Until the Rules of Evidence committee takes action, we are stuck with the Rules of Evidence not applying in juvenile court when they use terms like “criminal prosecution” and “defendant,” just like Rules 616 and 405 don’t apply in probate or other cases. Rule 616 has already been excluded by the language of the rule itself.

Mr. Russell further stated that as to Utah Code 80-6-206 and its application to Rule 27A, he believes the specific inadmissibility language should be present in our existing Rule 27A because the remedy should be spelled out. If the Supreme Court does not believe that is an appropriate remedy, they can address it. However, Utah Code 80-6-206 says a child may not be subject to interrogation “until and unless...” Rule 27A does not spell out the remedy and even though it might be implied as the only real remedy, Mr. Russell does not know it is exclusive and is hopeful Rule 27A can be changed to provide a remedy if law enforcement does not follow the law under Utah Code 80-6-206.

Ms. Verdoia stated that on its face, Rule 616 simply doesn’t apply so this committee doesn’t need a further statement that says it doesn’t apply when it is clear it doesn’t apply. Mr. Russell agreed. Judge Dame stated that until the amendments that Judge Leavitt is proposing go into effect, this committee is getting ahead of themselves.

Mr. Fureigh stated he practices child welfare, so he uses both civil rules and juvenile rules and decides which rules apply and which don’t based on the rules. If there is a rule that addresses an issue in a juvenile rule, he assumes that any civil rule that addresses that same issues does not apply because there is already a juvenile rule. Mr. Fureigh was proceeding the same way with Judge Leavitt’s proposal because part of his proposal was to include language that says the Rules of Evidence apply unless the juvenile rules say something different. Rule 43 of the Utah Rules of Juvenile Procedure also states that, so he was approaching it the same way. Mr. Fureigh agrees with Ms. Verdoia that if this committee specifically excludes Rules of Evidence, they also need to go through the other rules and do the same thing.

Judge Dame stated the language in Rule 2 of the Utah Rules of Juvenile Procedure and Rule 43 have two different approaches. Ms. Verdoia proposed that this committee could change Rule 43 to be consistent with Rule 2. Judge Dame agreed that is an option. Judge Dame stated he thinks this committee is getting ahead of themselves without finding out whether the Rules of Evidence language is going to be changed.

Mr. Russell agrees this should be on our radar and states that if or when Judge Leavitt’s proposal is put into place by the Supreme Court, it’s going to substantively change several of the rules that were highlighted in the February 2023 committee meeting. Mr. Russell stated that if Judge Leavitt’s proposal goes through, the net affect would be that Rule 616 would be then incorporated into the juvenile practice because it would apply to minors with felony delinquency proceedings so it would benefit his position and gut Mr. Yannelli’s position, so

then this committee can decide if they want to exempt Rule 616. Judge Dame agrees.

Mr. Yannelli proposed that this committee should wait until Judge Leavitt's changes to the Rules of Evidence go through and then see exactly what those changes are before making any decisions. Mr. Yannelli outlined that his concern regarding the applicability of Rule 616 was raised because he was under the impression that Judge Leavitt's changes would be made. However, he still believes it is a good argument because HB 404 was going to require audio and video recordings of custodial interrogations which is the same requirement in Rule 616, but it never passed because the legislature said no.

Ms. Moore inquired if anyone had spoken to Judge Leavitt about when the changes would be made. None of the committee members have spoken to Judge Leavitt, so Judge Dame stated he is happy to talk to him and can find out where they are on that. Mr. Russell stated the precipitating factor was because the evidence committee amended Rule 412 and they changed it to apply in both juvenile and adult cases. Mr. Russell outlined that the concern was brought up to ask about the applicability of the other rules, which is what Judge Leavitt is trying to clarify.

As to adding language to Rule 27A, Mr. Russell stated his position as a defender is he wants the remedy spelled out and thinks it should be explicitly spelled out for judges and practitioners. Mr. Russell stated the statute specifically outlines that the only remedy that makes sense is exclusion. Mr. Russell would like the remedy stated instead of implied. Mr. Yannelli stated that general practice would support that the remedy is exclusion. Mr. Fureigh stated this committee also assumed that is the remedy, but if it would be better to make it clear and put it in the rule, this committee could look at that and get some proposed language. Mr. Fureigh imagines the proposed language would contain similar language to what used to be in the rule before it was amended because the previous rule had it in there. If Mr. Fureigh recalls, the committee believed that because it was in the title and because it was general practice, it did not need to be in the body. However, there have been several committee members expressing today that they would like to have the remedy outlined so this committee can propose language.

Ms. Jeffs stated she has pulled together what different states have done with this language and could send it out. Some states say nothing, some say the remedy is suppression, and some have a totality of the circumstances so this committee could look at those. Judge Dame believes that in looking at prior versions of Rule 27A, we are at inadmissibility as the remedy. Judge Dame believes this committee is trying to figure out whether to plainly spell it out or not, not whether that should be the remedy. Mr. Fureigh stated he believes the committee took out the language because they were concerned with the burden and being careful about language that would shift the burden to the defense. Mr. Fureigh stated there was also some discussion about not requiring the defense to have to take affirmative action. Mr. Russell outlined that he has to file a motion to suppress at any rate pre-trial.

The committee then discussed proposed language that should be added to Rule 27A to explicitly state the remedy. The committee proposed the following addition as subsection (c), "Any statement made by a child during a custodial interrogation is inadmissible if the custodial interrogation does not comply with Utah Code section 80-6-206."

This will be put on next month's agenda for an update on the changes to the Rules of Evidence, and for possible motion to submit to the Supreme Court.

5. Discussion & Action – Rule 29C. Victim restitution orders: (All)

Mr. Fureigh stated this was put on the agenda to see where we were at with the issue. Mr. Fureigh stated that at the last meeting, it was determined that the legislature had passed some changes to the restitution statute and Mr. Russell may have some amendments. Mr. Russell indicated he believes nobody got what they wanted, and everyone was hoping the legislature would provide a model of clarity. Mr. Russell stated his proposed amendments to Rule 29C have been largely gutted due to the latest legislation. Mr. Russell walked through each of the subsections in his proposed language and compared them to the legislative change. Mr. Russell stated the statute has now given enough guidance that due process is announced and requires legal eyes-on. At this point, Mr. Russell does not believe any action needs to be taken and his motion should be tabled as the need he had is largely gone.

Judge Dame stated he thinks there will be some interpreting in SB 186 as well due to the conflicting language throughout the statute of "victim" and "victim's attorney." Judge Dame stated this was discussed as part of the legislative update at his judicial conference that went on this week and there was some discussion about the intent of the legislature.

Mr. Russell states this should be tabled to determine how it plays out in court and this committee can bring it back if needed.

6. Discussion – Supreme Court Memo: Remote vs. In-person hearings: (All)

Mr. Fureigh stated Judge Dame and Judge Jensen were going to attend the board of juvenile judges meeting. Mr. Fureigh inquired if they received any feedback from that meeting on how to proceed. Mr. Fureigh further stated this committee initially determined they weren't going to submit any feedback as a committee but members could do so individually, but it was added to the agenda today to see if there was any additional feedback.

Judge Dame stated he and Judge Jensen did attend the board of juvenile judges meeting and provided their feedback on the issue. The board ultimately decided they wanted to poll the juvenile court judges on how they were handling court hearings. They then sent a summary of how judges in the state are handling those

issues and it was not consistent, even within districts. Judge Dame stated they then reached out to juvenile court practitioners who regularly appear in juvenile court for their feedback on how things were going. Judge Dame stated the general feedback was that even though there is a variety of approaches that are being enacted throughout the state, practitioners reflected overall satisfaction. Many attorneys noted that having the ability to have virtual hearings allowed great access to justice without placing financial or time-off work burdens, and no one asked for a rule to be created. Judge Jensen stated the board of juvenile judges does not feel like a rule needs to be enacted at this point.

Mr. Fureigh stated the juvenile rules already have a rule that governs that, although the terminology may be outdated. Judge Dame agreed and outlined that the rules provide flexibility to each judge. Judge Jensen inquired if this committee thought the definitions should be changed as the Green Phase Report used the term virtual instead of remote conferencing. The committee then discussed the terminology. Mr. Fureigh stated that unless a committee member feels strongly that the terminology needs to be changed, he believes remote conferencing covers it. Mr. Russell and Judge Dame agreed.

7. Old business/new business: (All)

Mr. Fureigh asked the committee if any members had any old or new business they wanted to discuss. Mr. Russell stated he has heard rumors about new committee members and asked for any updates. Mr. Fureigh stated they did receive applications as they were short attorney generals, and they try to keep balance on the committee from the different organizations. Mr. Fureigh stated they asked the Supreme Court to add two additional members to this committee and selections have been made. Mr. Fureigh is meeting with the Supreme Court to get their approval so he cannot announce who they are yet. However, once they have been approved, he is hoping they can attend the meeting in May.

Mr. Fureigh stated they also have a few members on the committee whose terms will expire this summer, like Ms. Ostler and Mr. Yannelli. The rules only allow two terms to be served. There are also a few committee members whose first term is up, and they have the option to renew so they are waiting on a few of those. Mr. Fureigh then stated his term is up as he served two terms as a member and as Chair. It is anticipated the co-chair, Mr. Johnson, will take his position but he also has to be approved by the Supreme Court.

Mr. Fureigh reminded everything that the next meeting will be in person. For those further away, it will be a hybrid meeting so they will be able to attend virtually if needed. Lunch will be provided.

The meeting adjourned at 2:00 PM. The next meeting will be held on May 5, 2023 at 12:00 PM in person and via Webex.

TAB 2

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) A preliminary ~~examination-hearing~~ may not be held if the minor is indicted. If the indictment 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 80-6-503~~4~~.

(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 ~~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.

(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) A preliminary hearing may not be held if the minor is indicted. If the indictment is filed under Utah Code section 80-6-503, the court will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(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, the court will proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(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 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 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 hearing is concluded; and

(3) exclude spectators from the courtroom.

TAB 3

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

Effective: 5/1/2017

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

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

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

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

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

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

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

(c) Procedure to Determine Admissibility.

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

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

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

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

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

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

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

Rule 615. Excluding Witnesses.

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

(a) a party who is a natural person;

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

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

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

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

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

Rule 101. Scope; Definitions.

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

(b) Definitions. In these rules:

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

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

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

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

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

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

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

Rule 1101. Applicability of Rules.

Effective: 5/1/2022

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

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

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

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

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

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

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

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

State	Summary	Does Statute Address Remedy?
Alabama	Lists rights of child when taken into custody and additional rights prior to being questioned, including the right to communicate with legal guardian, whether or not that person is present, and that reasonable means will be provided for the child to do so, the right to not say anything, and the right to an attorney and to have an attorney appointed and reasonable means to allow the child to talk to that attorney. All must be communicated in a way the child understands.	No
Arkansas	Juveniles must be informed of their rights prior to custodial interrogation, and the questioning must cease if the minor indicates in any way that s/he wishes to speak to a parent, guardian, attorney, or wishes not to be questioned. Waiver must be knowing and voluntary, and must be in writing.	No
California	A minor under the age of sixteen must consult with legal counsel in person or via phone before he or she participates in a custodial interrogations. The consultation can only be waived in limited circumstances.	YES – the court must consider the “effect” of violating the statute when evaluating the admissibility of the statements. Does not say they are per se inadmissible, but the court must consider it.
Colorado	For statements made by a minor to be admissible, a parent, guardian, or attorney of a juvenile must be present during a custodial interrogation and be advised of the minor’s <i>Miranda</i> rights. The presence of a parent or guardian during an interrogation may be waived by both the minor and the parent or guardian in writing.	YES Inadmissible
Connecticut	Any admission or statement made by a minor under the age of sixteen, even after a waiver of their <i>Miranda</i> rights, is inadmissible unless it is made in the presence of a parent or guardian.	YES- law states that statements made not in presence of parents after waiver are inadmissible for under 16. 16-17 is a little more complicated, but courts must consider violation of statute.
Illinois	Juveniles under the age of fifteen must be represented by counsel throughout a custodial interrogation, without the ability to waive counsel if they are in custody for allegations related to a sex offense or murder. Illinois also requires that a simplified <i>Miranda</i> statement and waiver be read in its entirety to all juveniles prior to custodial interrogation.	YES Any violation of the statute renders the statements presumptively inadmissible. If the simplified statement is not read during a recorded interview, the ensuing statements made by the minor are presumed inadmissible but the presumption can be overcome by a preponderance of evidence that the statement was voluntarily given and is reliable based on the totality of circumstances.
Indiana	Constitutional rights of a minor may be waived only	No

	(1) by counsel if the child knowingly and voluntarily agrees to the waiver; (2) by the child's parent, guardian, or guardian ad litem if that person knowingly and voluntarily waives the child's rights, has no interest adverse to the child, meaningfully consults with the child, without the presence of a custodial parent, guardian or guardian ad litem if the child has been emancipated.	
Iowa	A minor under the age of sixteen cannot waive the right to counsel without the written consent of a parent, guardian, or custodian if they are taken into custody for an act that constitutes a serious or aggravated misdemeanor or felony under the criminal code.	No
Kansas	Admissions or confessions from juveniles under the age of fourteen years old made during a custodial interrogation are inadmissible unless it was made following consultation between a parent, guardian, or attorney on whether to waive certain <i>Miranda</i> rights. If a parent is the alleged victim or co-defendant, or a non-involved parent before making a waiver, then the juvenile must consult with an attorney prior to waiver. Furthermore, the presence of a parent during a waiver is insufficient if the parent is not acting with the juvenile's interest in mind.	YES Inadmissible
Maine	When a juvenile is arrested, law enforcement cannot question a juvenile until: (1) A legal custodian of the juvenile is notified and present during the questioning; (2) A legal custodian of the juvenile is notified of the arrest and gives consent for the questioning to proceed without the custodian's presence; or (3) Law enforcement has made reasonable efforts to make contact but has failed to reach the legal custodian and seeks to question the juvenile about continuing or imminent criminal activity.	
Missouri	A minor taken into custody has the right to have a parent, guardian, or custodian present during questioning. A parent's presence is just one factor in a totality of circumstances analysis regarding <i>Miranda</i> waiver.	No, and statute specifically talks about admissibility of recorded confessions.
Montana	A minor under the age of sixteen can only waive his or her <i>Miranda</i> rights if a parent or guardian agrees with the waiver. If the parent or guardian disagrees, then the minor can only waive those rights with the advice of an attorney.	No
New Mexico	Statements made by a minor under the age of thirteen during an interrogation are inadmissible. There is a rebuttable presumption that statements	YES Inadmissible for under 13, changes based on age as laid out in statute.

	made by a thirteen- or fourteen-year-old to a “person in a position of authority” are inadmissible. The statute makes no reference to presence of parents or other interested adults for minors under the age of thirteen, but for those thirteen or older, a totality of circumstance approach is used which includes as one factor whether the minor had the counsel of an attorney, friend, or relative at the time of questioning.	
New York	Parents have the statutory right to be informed of and present at an interrogation of a juvenile. Moreover, they cannot be barred from an interrogation if the juvenile is less than 16 years of age.	Statute does not address remedy, but court case in NY considered issue and held that, a parent’s absence does not make a juvenile’s statement inadmissible.
North Carolina	If a minor is under the age of sixteen, no in-custody admissions or confessions during an interrogation are admissible unless they were made in the presence of a parent, guardian, or attorney. If an attorney is not present, the parent or guardian must also be advised of the minor’s rights. A parent or guardian cannot make a waiver of rights on behalf of the minor.	YES, Inadmissible
Oklahoma	If the minor is under the age of sixteen, evidence collected during a custodial interrogation cannot be admitted unless the interrogation is conducted in the presence of “the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian.” The interested adult must also be advised of the minor’s rights before questioning.	YES, Inadmissible
Texas	Although the totality of circumstances analysis is used, Texas has unique and strict protections for juveniles under the age of eighteen. First, a juvenile may only be held in custody by law enforcement for a maximum of six hours prior to being booked into a juvenile facility. Second, once in custody, a juvenile must be taken without unnecessary delay to one of six specific locations permitted by statute (e.g., home, medical facility, to be booked, or a special juvenile processing unit). Law enforcement must “promptly give notice” to a juvenile’s parent or guardian that the juvenile is in custody, and parents or guardians have the right to speak privately with the juvenile. Parents do not have to be present during waiver or interrogation; however, Texas has a stringent requirement that a juvenile be taken to a magistrate for Miranda warnings, for those warnings to be recorded, and for the magistrate to certify that the waiver was done knowingly and voluntarily.	YES Inadmissible if statutory requirements are not met (which requires a magistrate not a parent for waiver)
Utah	A child subject to custodial interrogation has the right to have a parent or guardian present. If the	No

	parent or guardian has an adverse interest, including concerns over abuse, being a codefendant, or victim of the child, then the child has the right to have a friendly adult present during custodial interrogations. Both the child and parent must be advised of the child's rights, and the child must make the ultimate decision as to whether to waive his or her rights, and the parent must give permission for the child to be interrogated. If law enforcement is unable to make contact with a parent, guardian, or friendly adult within one hour of taking the child into custody, the child may waive his or her own <i>Miranda</i> rights after having been advised of his or her right to have a parent present.	
West Virginia	Statements made to law enforcement by minors under the age of fourteen who are in custody are inadmissible unless counsel is present. Statements made to law enforcement by minors who are fourteen or fifteen years of age are inadmissible unless they are made in the presence of counsel <i>or</i> the presence of the minor's parent or custodian. The parent or custodian must also be fully informed of the minor's rights and consent to the waiver.	YES Inadmissible

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.

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.

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.

9

TAB 5

**Rule 37A. Visual recording of statement or testimony of child in abuse, neglect~~and,~~
dependency, and substantiation proceedings - Conditions of admissibility.**

(a) In any abuse, neglect, dependency, and substantiation proceedings, the oral statement of a child may be recorded, and upon motion and for good cause shown is admissible as evidence in any court proceeding regarding the petition if all of the following conditions are met:

(a)(1) no attorney for any party is in the child's presence when the statement is recorded;

(a)(2) the recording is visual and aural and is recorded on film or videotape or by other electronic means;

(a)(3) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered;

(a)(4) each voice in the recording is identified;

(a)(5) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify and be cross-examined by either party;

(a)(6) the parties and the parties' attorneys are provided an opportunity to view the recording before it is shown to the court;

(a)(7) the court views the recording and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence; and

(a)(8) the child is available to testify and to be cross-examined at trial, either in person or as provided by Subsection (b) or (c), or the court determines that the child is unavailable as a witness to testify at trial under the Utah Rules of Evidence. For purposes of this subsection "unavailable" includes a determination, based on medical or psychological evidence or expert testimony, that the child would suffer serious emotional or mental strain if required to testify at trial.

(b) In any abuse, neglect, ~~and~~ dependency, and substantiation proceedings, the court may order that the testimony of any child may be taken in a room other than the courtroom. All of the following conditions shall be observed:

(b)(1) Only the judge, attorneys for each party, persons necessary to operate equipment, and a counselor or therapist whose presence contributes to the welfare and emotional well-being of the child may be with the child during the testimony. The parties may also be present during the child's testimony unless a party consents to be hidden from the child's view, or the court determines that the child will suffer serious emotional or mental strain if required to testify in the party's presence, or that the child's testimony will be unreliable if required to testify in the party's presence. If the court makes that determination, or if the party consents:

(b)(1)(A) the party may not be present during the child's testimony;

(b)(1)(B) the court ~~shall~~will ensure that the child cannot hear or see the party;

(b)(1)(C) the court ~~shall~~will advise the child prior to testifying that the party is present at the trial and may listen to the child's testimony;

(b)(1)(D) the party ~~shall~~must be permitted to observe and hear the child's testimony, and the court ~~shall~~will ensure that the party has a means of two-way telephonic communication with counsel during the child's testimony;

(b)(1)(E) normal court procedures ~~shall~~must be approximated as nearly as possible;

(b)(2) Only the judge and attorneys may question the child unless otherwise approved by the judge;

(b)(3) As much as possible, persons operating equipment ~~shall~~must be confined to an adjacent room or behind a screen or mirror so the child cannot see or hear them.

(c) In any abuse, neglect, ~~and~~ dependency, and substantiation proceedings, the court may order that the testimony of any child be taken outside the courtroom and be recorded. That testimony is admissible as evidence, for viewing in any court proceeding regarding

the allegations if the provisions of Subsection (b) are observed, in addition to the following provisions:

(c)(1) the recording is both visual and aural and recorded on film or videotape or by other electronic means;

(c)(2) the recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate and is not altered;

(c)(3) each voice on the recording is identified; and

(c)(4) each party is given an opportunity to view the recording before it is shown in the courtroom.

(d) If the court orders that the testimony of a child be taken under Subsection (b) or (c), the child may not be required to testify in court at any proceeding where the recorded testimony is used.

Rule 37A. Visual recording of statement or testimony of child in abuse, neglect, dependency, and substantiation proceedings - Conditions of admissibility.

(a) In any abuse, neglect, dependency, and substantiation proceedings, the oral statement of a child may be recorded, and upon motion and for good cause shown is admissible as evidence in any court proceeding regarding the petition if all of the following conditions are met:

(a)(1) no attorney for any party is in the child's presence when the statement is recorded;

(a)(2) the recording is visual and aural and is recorded on film or videotape or by other electronic means;

(a)(3) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered;

(a)(4) each voice in the recording is identified;

(a)(5) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify and be cross-examined by either party;

(a)(6) the parties and the parties' attorneys are provided an opportunity to view the recording before it is shown to the court;

(a)(7) the court views the recording and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence; and

(a)(8) the child is available to testify and to be cross-examined at trial, either in person or as provided by Subsection (b) or (c), or the court determines that the child is unavailable as a witness to testify at trial under the Utah Rules of Evidence. For purposes of this subsection "unavailable" includes a determination, based on medical or psychological evidence or expert testimony, that the child would suffer serious emotional or mental strain if required to testify at trial.

(b) In any abuse, neglect, dependency, and substantiation proceedings, the court may order that the testimony of any child may be taken in a room other than the courtroom. All of the following conditions shall be observed:

(b)(1) Only the judge, attorneys for each party, persons necessary to operate equipment, and a counselor or therapist whose presence contributes to the welfare and emotional well-being of the child may be with the child during the testimony. The parties may also be present during the child's testimony unless a party consents to be hidden from the child's view, or the court determines that the child will suffer serious emotional or mental strain if required to testify in the party's presence, or that the child's testimony will be unreliable if required to testify in the party's presence. If the court makes that determination, or if the party consents:

(b)(1)(A) the party may not be present during the child's testimony;

(b)(1)(B) the court will ensure that the child cannot hear or see the party;

(b)(1)(C) the court will advise the child prior to testifying that the party is present at the trial and may listen to the child's testimony;

(b)(1)(D) the party must be permitted to observe and hear the child's testimony, and the court will ensure that the party has a means of two-way telephonic communication with counsel during the child's testimony;

(b)(1)(E) normal court procedures must be approximated as nearly as possible;

(b)(2) Only the judge and attorneys may question the child unless otherwise approved by the judge;

(b)(3) As much as possible, persons operating equipment must be confined to an adjacent room or behind a screen or mirror so the child cannot see or hear them.

(c) In any abuse, neglect, dependency, and substantiation proceedings, the court may order that the testimony of any child be taken outside the courtroom and be recorded. That testimony is admissible as evidence, for viewing in any court proceeding regarding

52 the allegations if the provisions of Subsection (b) are observed, in addition to the
53 following provisions:

54 (c)(1) the recording is both visual and aural and recorded on film or videotape or by other
55 electronic means;

56 (c)(2) the recording equipment is capable of making an accurate recording, the operator
57 is competent, and the recording is accurate and is not altered;

58 (c)(3) each voice on the recording is identified; and

59 (c)(4) each party is given an opportunity to view the recording before it is shown in the
60 courtroom.

61 (d) If the court orders that the testimony of a child be taken under Subsection (b) or (c),
62 the child may not be required to testify in court at any proceeding where the recorded
63 testimony is used.

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.

TAB 7

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 inconsequentially, 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;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

or

(c) the juvenile court as provided in Subsection [~~78A-6-103(2)(m)~~]

78A-6-103(2)(a)(xiv) and Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(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.

1 **Rule 17. The petition.**

2 **(a) Delinquency cases.**

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

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

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

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

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

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

22 (3) A petition filed by a state human services agency shall either be prepared or
23 approved by the office of the attorney general. When the petitioner is an employee
24 or agent of a state agency acting in his or her official capacity, the name of the
25 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.

1 **Rule 56. Expungement.**

2 (a) Any individual who has been adjudicated delinquent by a juvenile court may petition
3 the court for an order expunging and sealing the records pursuant to Utah Code section
4 80-6-1001, et. seq.

5 **(b) Adjudication expungement.**

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

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

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

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