



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

### Meeting Agenda

*Matthew Johnson, Chair*

Location: Webex Meeting

Date: August 4, 2023

Time: 12:00 pm – 2:00 pm

<b>Action:</b> Welcome and approval of June 2, 2023, meeting minutes.	Tab 1	Matthew Johnson
<b>Discussion:</b> JJYS Juvenile Referral and Request for Detention Form. <ul style="list-style-type: none"><li><i>Ms. McDonald and Mr. Murdoch have been working on updates to the statewide booking sheets. They will present their most recent draft and are seeking the Committee's feedback.</i></li></ul>	Tab 2	Mollie McDonald Blake Murdoch
<b>Discussion:</b> <a href="#">Rule 9</a> . Detention hearings; scheduling; hearing procedure. <ul style="list-style-type: none"><li><i>Judge Monica Diaz recommends amending Rule 9 to create an exception to weekly detention review hearings in cases where there is concurrent jurisdiction with the district court.</i></li></ul>	Tab 3	All
<b>Discussion &amp; Action:</b> <a href="#">Rule 37A</a> . Visual recording of statement or testimony of child in abuse, neglect, and delinquency proceedings - Conditions of admissibility. <ul style="list-style-type: none"><li><i>Comment period closed on July 1, 2023.</i><ul style="list-style-type: none"><li><i>Zero comments received</i></li></ul></li></ul>	Tab 4	All

<b>Discussion &amp; Action:</b> <a href="#">Rule 10</a> . Bail for non-resident minors. <ul style="list-style-type: none"> <li><i>References to statute in Rule 10 may need to be updated.</i></li> </ul>	Tab 5	Judge Dame Arek Butler
<b>Discussion &amp; Action:</b> <a href="#">Rule 17</a> . The petition. <ul style="list-style-type: none"> <li><i>References to statute in Rule 17 need to be updated as a result of <a href="#">H.B. 60</a>, which passed during the 2023 legislative session.</i></li> </ul>	Tab 6	All
<b>Discussion &amp; Action:</b> Rule 56. Expungement. <ul style="list-style-type: none"> <li><i>References to statute in Rule 56 need to be updated as a result of <a href="#">H.B. 60</a>, which passed during the 2023 legislative session.</i></li> <li><i>Two new expungement categories were also added as a result of H.B. 60.</i></li> <li><i>Added the court's responsibility to send the expungement orders to affected agencies.</i></li> </ul>	Tab 7	All Joseph Rivera De La Vega Raymundo Gallardo
<b>Discussion:</b> <a href="#">Rule 52</a> . Appeals. <ul style="list-style-type: none"> <li><i>Added restoration of parental rights cases as addressed in Utah Code section <a href="#">78A-6-359</a>.</i></li> </ul>	Tab 8	All
<b>Discussion:</b> Old business or new business		All

### [URJP Committee Site](#)

#### Meeting Schedule:

September 1, 2023

October 6, 2023

November 3, 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: June 2, 2023

Time: 12:00 p.m. – 2:00 p.m.

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

**1. Welcome and approval of the May 4, 2023 Meeting Minutes: (David Fureigh)**

Mr. Fureigh welcomed everyone to the meeting and thanked those who were able to attend in-person at the last meeting. Mr. Fureigh indicated this will be his last meeting and there are still openings for committee members. Mr. Fureigh stated the opening has been advertised a few times and they have only received two applications and they were both from the AG's Office. Mr. Fureigh stated the committee needs prosecutors, clerks, and Guardian ad Litem's. Mr. Fureigh asked the committee members to reach out to their associates and co-workers and try to recruit more members.

Mr. Fureigh then asked the committee for approval of the May 4, 2023, meeting minutes. Judge Dame stated he had a small correction to the minutes on page two that he believes was a typo. The change was made. With the amendment, Janette White moved to approve the minutes. Sophia Moore seconded the motion, and it passed unanimously.

**2. Discussion & Action – Rule 27A. Admissibility of statement given by a child: (All)**

Mr. Fureigh reminded the committee that Rule 27A was amended to include language that if the requirements outlined in the statute were not complied with, the statement would be inadmissible. Mr. Fureigh stated he took the proposed amendment to the Supreme Court, and they had some concerns that he asked the committee to discuss further. Specifically, the Supreme Court asked this committee to discuss if Rule 27A was a blanket exclusionary rule, and suggested this issue should be on a case-by-case basis and on the examination of case law rather than a blanket rule. Mr. Fureigh indicated the Supreme Court did not say anything about it being substantive rather than procedural but that he got the sense they were questioning that. Mr. Fureigh stated his only concern is that where the statute sets the requirements for custodial interrogation, whether it is a procedural issue for the rule to determine what the result would be for failing to comply with the requirements in the statute. Mr. Fureigh suggested the committee may want to consider changing the language to “may be inadmissible” to still allow the court discretion and review it on a case-by-case.

Mr. Johnson stated one of the justices had an issue with subsection (c) because if the statute was not followed, any confession or interview with the juvenile would be deemed inadmissible. Mr. Johnson indicated one of the biggest points he was trying to make was it should not be determinative and should be reviewed on a case-by-case basis. Mr. Johnson agrees the committee may want to consider changing the language to make it more abstract and not so concrete.

Judge Dame stated he is leaning towards leaving it out altogether based on the Supreme Court's input and their concerns. Judge Dame indicated if you look at Rule 616 of the Rules of Evidence dealing with statements made during custodial interrogations, there is a provision that indicates evidence of a statement made by the defendant during custodial interrogation shall not be admitted in a felony

criminal prosecution unless a recording is made. Judge Dame indicated this committee is not dealing with that same issue because the statute does not require a recording. However, as he looks at that, and considering the Supreme Court's concerns, Rule 616 has a detailed exception to not being admissible. For example, it is limited to felonies, there is an exception for interviews out of state, an exception for statements for impeachment purposes only, an exception for spontaneous statements, etc. There are several issues this committee has not really fleshed out. Judge Dame stated that having said all of that, considering the Supreme Court's concerns, he is leaning towards leaving it out rather than changing the language to "may be inadmissible" because he does not think that helps.

Mr. Gallardo stated that while the committee is thinking about Judge Dame's thoughts, there was another suggestion by the Supreme Court in subsection (b). Right now, the language says the state "shall retain the burden," and the justices did not think there was anything to retain as the state has the burden. Mr. Gallardo also indicated Mr. Yannelli could not be present at the committee meeting and apologized, but that Mr. Yannelli provided Mr. Gallardo with his suggestions and concerns. Mr. Yannelli's proposal would be to leave Rule 27A with paragraph (a) only and remove paragraph (b) and (c). Mr. Yannelli also expressed concern that with the proposed changes to the language in the Rules of Evidence, that Rule 616 may now apply in juvenile court matters, and he thinks it should be excluded to the application of juvenile court matters because they have Rule 27A.

Mr. Butler stated he agrees with Judge Dame to leave out the proposed language in (c) altogether. Mr. Butler stated there are a lot of exceptions and things that may apply in that situation, and he does not think this committee needs to flesh those out. Mr. Butler indicated that by removing (c), it gives the court leeway to decide to either exclude it or not, so leaving it out would be the best.

Mr. Johnson stated he agrees with Mr. Yannelli's proposal to just have subsection (a) to be Rule 27A. Mr. Johnson indicated that allows law enforcement to see the citation to the statute and lets them know they need to comply with the provisions in that statute. Ms. Moore inquired if the preponderance language is in the statute and wants to make sure that language is somewhere before this committee removes it. Judge Dame does not think it is in the statute. Ms. Jeffs stated she likes the language in (b) because she has been the new prosecutor who wonders if it was one of those weird times when the burden shifts and believes that language is helpful for those situations. Mr. Fureigh agreed with what has been said. Mr. Fureigh stated one concern he had was if this committee removes (b), without it being in the statute, if everyone will wonder why it was taken out and may question if the state bears the burden.

Mr. Johnson stated that if the preponderance language is not in the statute, and this committee decided to keep (b), this committee may need to take out the preponderance language. The committee then discussed where the preponderance language came from. Judge Dame stated that if this committee is going to change that language, he would like some additional time to research the issue as that

language has been in the rule and does not believe it has ever been an issue. Mr. Gallardo reviewed the history of the amended changes to Rule 27A and indicated the preponderance language has been there since 2007. Mr. Gallardo suggested that before the committee makes any change, he could send every amendment to this rule since 2007. Mr. Gallardo stated he cannot see any reasoning for including that language but could at least share the amendments. Mr. Gallardo indicated it appears that language has been in the rule since the beginning. Judge Dame proposed to leave it as-is, and if a committee member wants to research the issue, they can bring it up later if needed. Several committee members agreed as well.

Mr. Fureigh stated the Supreme Court justices only suggested the change to (b) to change “shall retain” to “has” if this committee was already making changes to Rule 27A. If no changes are proposed by this committee, Mr. Fureigh thinks the committee can just leave it. Mr. Fureigh stated that if someone wanted to do some additional research and find out where the preponderance language came from, then they could, and this issue could be put back on the agenda to be changed.

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

Mr. Fureigh reminded the committee that there were some additional changes made to Rule 22 at the last meeting pursuant to the Supreme Court’s suggestions and concerns. Mr. Fureigh stated they were getting ready to take it back to the Supreme Court but right before that, Mr. Gallardo brought up the possibility to amend (f) to coincide with statute citation in (j). Mr. Fureigh, Mr. Johnson, and Mr. Gallardo all discussed it and thought that issue should be brought back to the committee first before taking it to the Supreme Court.

Mr. Gallardo stated at the last committee meeting, the committee amended (j), but upon further review noticed at the beginning of line 29 in (f), it contains the same sentence that refers to Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504. Mr. Gallardo indicated he wanted to make sure this committee was okay with adding subpart (3) to that statute reference as well. The committee agreed it should also be added to (f), and the change was made. Judge Dame moved to approve Rule 22 with that amendment, William Russell seconded the motion, and it passed unanimously.

### **4. Discussion & Action – Rule 10. Bail for non-resident minors: (Judge Dame, Arek Butler, All)**

Mr. Fureigh stated Judge Dame brought up Rule 10 because it was brought to his attention by another judge that the rule may be outdated. Judge Dame and Mr. Butler were going to look at the rule and the statute and decide if the citation was correct or needed to be changed. Judge Dame stated he had a suggestion to change the language from what it is to Utah Code Title 77, Chapter 20, Parts 4 and 5 but

wanted someone else to have their eyes on it and make sure they agreed with that. Mr. Butler indicated he recently started his new position and has not had time to review it and apologized. Mr. Butler inquired if this committee could look at it together.

Mr. Fureigh stated that in looking at the current citation cited in Rule 10, it will at least get someone close to where they need to be. Mr. Fureigh stated he is fine to wait until the next committee meeting in August to allow Mr. Butler some additional time to look at it. Judge Dame stated he would feel more comfortable with someone else looking at it. Mr. Russell stated his concern is that chapter 20b no longer exists and he needs some additional time to look into it and requested it be placed on the agenda for August.

Mr. Weeks introduced himself and stated he is an attorney with the Office of Legislative Research and General Counsel and has recently been assigned to the judiciary committee. Mr. Weeks offered to get Mr. Butler in contact with the drafting attorney so he could have a conversation with them and what they were thinking. Mr. Butler stated that would be helpful.

## **5. Discussion & Action – H.B. 60: Juvenile Justice Modifications: (All)**

Mr. Fureigh stated there were some changes made by H.B. 60 that may require some changes to be made to the citations in Rules 17 and Rule 56. Mr. Gallardo stated this was brought to his attention by his supervisor as they were trying to work on what petitions for expungements look like come October 1, 2023, when the changes are effective. Mr. Gallardo indicated H.B. 60 enacts several statutes and because expungements are mentioned in Rule 17 and Rule 56, his supervisor was wondering if there needed to be changes made. Mr. Gallardo asked the committee members if they would be willing to look at H.B. 60 and look at Rule 17 and 56 to see if they needed to be updated or if further changes needed to be made to the rules themselves. Judge Dame brought up that subsection (a)(2) of Rule 17 may also need to be updated because there were some legislative changes that amend that as well.

Judge Dame stated he believes they need to be changed and updated and made some suggested changes. Judge Dame started with Rule 17(a)(2) which references section 80-6-304. Judge Dame proposed that instead of 80-6-304, it would be changed to 80-6-303.5, 80-6-304.5, and 80-6-305. Judge Dame further proposed that in subpart (c)(2) where it says 80-6-1004, it should be 80-6-1004.1, and in subpart (c)(3) where it says 80-6-1005, it should now be 80-6-1004.2. Judge Dame stated it may be helpful to have someone else look at it to confirm those are accurate citations.

Judge Dame then proposed changes to Rule 56. Judge Dame proposed in Rule 56(b)(2) where it says 80-6-1004, that be changed to 80-6-1004.1. Judge Dame further proposed that under (c) where it says 80-6-1005, it should now be 80-6-1004.2. Judge Dame then indicated that at some point there needs to be new subpart (d) and (e) to cover 1004.3 and 1004.4, and change the current subpart (d)



to (f). Mr. Russell inquired if this committee could combine 1004.3 and 1004.4 into one subsection as both of those discuss expunging a juvenile record. Mr. Russell stated he does not know if the processes are identical, but if they were, this committee may consider combining them into one subsection. Mr. Russell indicated that there used to only be a procedure to expunge adjudications. With these changes, Mr. Russell points out there is now a mechanism to expunge both arrests that do not result in prosecutions and acquittals, which is what 1004.3 and 1004.4 are addressed. Mr. Russell stated he does not think there needs to be a rule for automatic expungements because that is an internal process of the juvenile court.

Judge Dame stated he believes it would be clearer to set them out in four different sections, but he does not feel strongly about that. After looking at the text, Mr. Russell agreed. Judge Dame indicated that the process in 1004.3 seems similar to the process under 1004.1, but he does not believe this is a quick draft that this committee could do right now on the fly. Mr. Russell stated his preference would be that since the changes are not effective until October, this committee asks staff to do a preliminary draft so the committee can review and compare it and put it back on the agenda in August. Several committee members agreed. Mr. Gallardo will work on getting a hold of the law clerks to come up with a draft to address the new subsections.

Mr. Fureigh stated he looked at the style guide on how to list statutes back-to-back based on the changes that were made in Rule 17, and the style guide does not say anything. Mr. Butler stated the Blue Book would have you put a dash, but he does not know if that is how the style guide suggests. The committee looked at how the citations have been referred to in the past in other rules and determined to leave them written out.

## **6. Discussion – Rule 52. Appeals: (All)**

Mr. Fureigh stated this has been on the agenda in the past, but he cannot remember where it came from. Mr. Gallardo stated this was brought to his attention by another juvenile court administrator as there was new legislation recently regarding the appointment of defense counsel for the types of hearings outlined in Rule 52. Mr. Gallardo stated that as the juvenile court administrator was looking at that particular legislation, it mentioned the appointment of counsel for parents in termination and restoration of parental rights. Mr. Gallardo indicated the administrator then cross-referenced Rule 52 and saw that Rule 52 does not mention restoration of parental rights. Mr. Gallardo presented this issue to the committee and inquired if they would like to add language in subsection (b) to add “and restoration of parental rights.”

Mr. Fureigh stated his recollection of the reason for section (b) is to expedite the appeals process by cutting it down from 30 days to 15. Mr. Fureigh indicated if you look at (a) it includes everything that (b) or (c) does not include so restoration of parental rights in appeals would have to be filed within 30 days unless this committee decided to put it in (b). Mr. Fureigh stated the reason those proceedings

were included in the past was because the committee felt like those were things that needed to be expedited, which he agrees with. Mr. Fureigh then proposed to the committee whether appeals from restoration of parental need to be expedited along with those other proceedings outlined.

Ms. Moore stated she would like to set this issue over because she knows they have amended some of the appellate rules and some of the deadlines were changed because they were not getting transcripts in time. Ms. Moore does not recall how it was changed, but she would like time to check into that issue. Judge Dame stated the statute that addresses these issues, Utah Code 78A-6-359(2)(a), includes that restoration of parental rights appeal need to be filed within 15 days. Mr. Gallardo stated in the e-mail he received, it cites that statute as well, and it was proposed that the rule mirrors that statute.

Ms. Verdoia reiterated what Judge Dame said and stated this committee does not have a choice. Ms. Verdoia stated the restoration of parental rights would need to be expedited because it involves a child in limbo if the child has not been adopted. Ms. Verdoia indicated the child is also able to petition for restoration of parental rights. Ms. Verdoia stated there is not a choice that needs to be made anyway, but there was a policy reason behind the change. Ms. Verdoia does not believe the addition was connected to the appointment of counsel. The issue was then brought up that Rule 1(f) of the Utah Rules of Appellate Procedure does not include restoration of parental rights. Ms. Verdoia explained that when the original expedited child welfare rules were put in place to pull out separate types of appeal they wanted to go on an expedited way, restoration wasn't in the statute yet. Ms. Verdoia does not think the appellate rules committee has had a chance to address it, or it has not been brought to their attention.

Mr. Fureigh stated the way the rule is written, it may not need to be changed because it would still apply under (a) that says, "except as otherwise provided by law," though it would make it more clear by adding it in. Ms. Verdoia stated she does not want to confuse practitioners or the public who do not regularly practice in juvenile court. Judge Dame agreed.

The committee then discussed a stylistic change to (d), and whether it should state "will" or "must." Judge Dame proposed that we remove the word altogether, and the committee agreed. Due to the committee no longer having a quorum as some members had to leave early, this will be added to the agenda for August for a vote.

## **7. Old business/new business: (All)**

Mr. Fureigh asked the committee if there was anything else the committee would like to discuss. Ms. White thanked Mr. Fureigh for all he has done for this committee. Mr. Gallardo also thanked Ms. Ostler for her work, and all the other members who will be leaving the committee after this meeting. Mr. Gallardo stated they will be meeting with the forms committee on June 12, 2023, to work on the bilingual notice form. Mr. Fureigh then reminded everyone there is not a committee meeting in July.

The meeting adjourned at 1:20 PM. The next meeting will be held on August 4, 2023 at 12:00 PM via Webex.

# TAB 2

Detention Intake Worker:

Police arrest report #

**JUVENILE REFERRAL AND  
REQUEST FOR DETENTION**

Date and time booked:

In accordance with 80-6-203, a peace officer or other person who takes a minor to a detention facility shall promptly file a written report, on a form provided by the division, with the detention facility that states the following:

1. the details of the offense that the minor is alleged to have committed;
2. the facts that bring the offense within the jurisdiction of the juvenile court;
3. the reason that the minor was not released by a peace officer or other person; and
4. if the minor is under consideration for detention, the eligibility of the minor for detention under the division guidelines.

DATE	OFFENSE ("Warrant" if a youth was committed in response to a warrant)	OFFENSE LEVEL (Or "Warrant")

Last Name	First Name	Middle Name	Nicknames	Sex

Race	Age	Birthdate	School	Grade	Height	Weight

Hair	Eyes	Complexion	Physical Condition	Tattoos (Describe)

Address	City	State	Zip	Phone

Father / Guardian: Father	Address	Phone	Work

Mother / Guardian: Mother	Address	Phone	Work

Juvenile living with (If different):	Address	Phone	Work

**NOTIFICATION**

Was a parent or guardian notified about the detention hearing?

Interpreter needed (Parent / Youth / Both)?

Primary Language:

Name of parent(s) or guardian(s) who were notified:

Name of the person who notified parent or guardian:

Date and time of notification to parent or guardian:

Probation Officer / Case Worker:

Was the juvenile offered two telephone calls?

Police arrest report #

## REQUEST FOR DETENTION

Juvenile Court Case #

**Name of Juvenile:**

Parent Contacted by:

Date of Contact:

Name of Contact:

Method of Contact:

**NARRATIVE OF FACTS: (The following must highlight the facts that bring the offense within the jurisdiction of the juvenile court and the details of the offense that the minor is alleged to have committed).**

**The eligibility of the minor for detention under the detention guidelines found in Utah Admin CODE r.R547-13:**

**The reason the minor was not released by the peace officer or other person:**

**Pursuant to Utah Code section 78B-18a-104, I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.**

***DATE:***

***Name of LAW ENFORCEMENT OFFICER OR COMPLAINANT:***

***Name of Law Enforcement Agency:: I.D. NUMBER:***

***ADMITTED BY:***

# TAB 3



**Rule 9. Detention hearings; scheduling; hearing procedure.**

(a) The officer in charge of the detention facility ~~shall~~must provide to the court a copy of the report required by Utah Code section 80-6-201.

(b) If a minor is admitted into a detention facility without a warrant, the court ~~shall~~will make a determination whether there is probable cause for the minor's arrest, within 24 hours of the minor's admission to detention including weekends and holidays.

(c) The court ~~shall~~will hold a detention hearing within 48 hours of the minor's admission to detention. A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention. The officer in charge of the detention facility ~~shall~~must notify the minor, parent, guardian or custodian and attorney of the date, time, place and manner of such hearing.

(d) The court may at any time order the release of a minor whether a detention hearing is held or not.

(e) A probable cause determination and detention hearing may occur concurrently so long as the probable cause determination and the detention hearing occur pursuant to the time frames in paragraphs (b) and (c).

(f) The court may order a minor to be held in the detention facility or placed in another appropriate facility, subject to further order of the court, only if the court finds at the detention hearing that:

(1) releasing the minor to the minor's parents, guardian, or custodian presents an unreasonable risk to public safety;

(2) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(3) the minor is eligible for detention under the division guidelines for detention admission established by the Division of Juvenile Justice Services, under Utah Code sections 80-5-501 and 80-6-201.

(g) At the beginning of the detention hearing, the court ~~shall~~will advise all persons present as to the reasons or allegations giving rise to the minor's admission to detention and the limited scope and purpose of the hearing. If the minor is to be arraigned at the detention hearing, the provisions of Rules 24 and 26 ~~shall~~will apply.

(h) The court may receive any information, including hearsay and opinion, that is relevant to the decision whether to detain or release the minor. Privileged communications may be introduced only in accordance with the Utah Rules of Evidence.

(i) A detention hearing may be held without the presence of the minor's parent, guardian or custodian if they fail to appear after receiving notice. The court may delay the hearing for up to 48 hours to permit the parent, guardian or custodian to be present or may proceed subject to the rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or without the minor's request.

(j) If the court determines that no probable cause exists for the arrest or the offense or condition alleged does not meet the requirements in Rule 6 as a basis for admission, it ~~shall~~will order the minor released immediately without restrictions.

(k) If the court determines that a less restrictive alternative to detention is appropriate it may place the minor on home detention, another alternative program, or order the minor's release upon compliance with certain conditions pending further proceedings. Such conditions may include:

(1) a requirement that the minor remain in the physical care and custody of a parent, guardian, custodian or other suitable person;

(2) a restriction on the minor's travel, associations or residence during the period of the minor's release; and

(3) other requirements deemed reasonably necessary and consistent with the criteria for detaining the minor.

(l) If the court determines that probable cause exists as to the offense or condition alleged as a basis for the minor's admission to detention but that the minor can be safely left in the care and custody of the parent, guardian or custodian present at the hearing, it may order release of the minor upon the promise of the minor and the parent, guardian or custodian to return to court for further proceedings when notified.

(m) If the court determines that the offense is one governed by Utah Code sections 80-6-502, 80-6-503, 80-6-504, or 80-6-505, the court may by issuance of a warrant of arrest order the minor committed to the county jail in accordance with Utah Code section 80-6-204.

(n) Except as provided in subsection (o), Any predisposition order to detention ~~shall~~will be reviewed by the court once every seven days, unless the minor is ordered to home detention or an alternative detention program. Predisposition orders to home detention or an alternative detention program ~~shall~~will be reviewed by the court once every 15 days. The court may, on its own motion or on the motion of any party, schedule a detention review hearing at any time.

(o) When the district court and juvenile court have concurrent jurisdiction over a minor or when an information has been filed pursuant to 80-6-503, any predisposition order to detention will be reviewed by the court once every XX days. The court may, on its own motion or on the motion of any party, schedule a detention review hearing at any time.

**Rule 9. Detention hearings; scheduling; hearing procedure.**

(a) The officer in charge of the detention facility must provide to the court a copy of the report required by Utah Code section 80-6-201.

(b) If a minor is admitted into a detention facility without a warrant, the court will make a determination whether there is probable cause for the minor's arrest, within 24 hours of the minor's admission to detention including weekends and holidays.

(c) The court will hold a detention hearing within 48 hours of the minor's admission to detention. A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention. The officer in charge of the detention facility must notify the minor, parent, guardian or custodian and attorney of the date, time, place and manner of such hearing.

(d) The court may at any time order the release of a minor whether a detention hearing is held or not.

(e) A probable cause determination and detention hearing may occur concurrently so long as the probable cause determination and the detention hearing occur pursuant to the time frames in paragraphs (b) and (c).

(f) The court may order a minor to be held in the detention facility or placed in another appropriate facility, subject to further order of the court, only if the court finds at the detention hearing that:

(1) releasing the minor to the minor's parents, guardian, or custodian presents an unreasonable risk to public safety;

(2) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(3) the minor is eligible for detention under the division guidelines for detention admission established by the Division of Juvenile Justice Services, under Utah Code sections 80-5-501 and 80-6-201.

(g) At the beginning of the detention hearing, the court will advise all persons present as to the reasons or allegations giving rise to the minor's admission to detention and the limited scope and purpose of the hearing. If the minor is to be arraigned at the detention hearing, the provisions of Rules 24 and 26 will apply.

(h) The court may receive any information, including hearsay and opinion, that is relevant to the decision whether to detain or release the minor. Privileged communications may be introduced only in accordance with the Utah Rules of Evidence.

(i) A detention hearing may be held without the presence of the minor's parent, guardian or custodian if they fail to appear after receiving notice. The court may delay the hearing for up to 48 hours to permit the parent, guardian or custodian to be present or may proceed subject to the rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or without the minor's request.

(j) If the court determines that no probable cause exists for the arrest or the offense or condition alleged does not meet the requirements in Rule 6 as a basis for admission, it will order the minor released immediately without restrictions.

(k) If the court determines that a less restrictive alternative to detention is appropriate it may place the minor on home detention, another alternative program, or order the minor's release upon compliance with certain conditions pending further proceedings. Such conditions may include:

(1) a requirement that the minor remain in the physical care and custody of a parent, guardian, custodian or other suitable person;

(2) a restriction on the minor's travel, associations or residence during the period of the minor's release; and

(3) other requirements deemed reasonably necessary and consistent with the criteria for detaining the minor.

(l) If the court determines that probable cause exists as to the offense or condition alleged as a basis for the minor's admission to detention but that the minor can be safely left in the care and custody of the parent, guardian or custodian present at the hearing, it may order release of the minor upon the promise of the minor and the parent, guardian or custodian to return to court for further proceedings when notified.

(m) If the court determines that the offense is one governed by Utah Code sections 80-6-502, 80-6-503, 80-6-504, or 80-6-505, the court may by issuance of a warrant of arrest order the minor committed to the county jail in accordance with Utah Code section 80-6-204.

(n) Except as provided in subsection (o), any predisposition order to detention will be reviewed by the court once every seven days, unless the minor is ordered to home detention or an alternative detention program. Predisposition orders to home detention or an alternative detention program will be reviewed by the court once every 15 days. The court may, on its own motion or on the motion of any party, schedule a detention review hearing at any time.

(o) When the district court and juvenile court have concurrent jurisdiction over a minor or when an information has been filed pursuant to 80-6-503, any predisposition order to detention will be reviewed by the court once every XX days. The court may, on its own motion or on the motion of any party, schedule a detention review hearing at any time.

# TAB 4

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

(a) In any abuse, neglect, dependency, ~~and~~or 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:

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

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

(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;

(4) each voice in the recording is identified;

(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;

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

(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

(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



26 medical or psychological evidence or expert testimony, that the child would suffer  
27 serious emotional or mental strain if required to testify at trial.

28 (b) In any abuse, neglect, ~~and~~ dependency, or substantiation proceedings, the court may  
29 order that the testimony of any child may be taken in a room other than the courtroom.

30 All of the following conditions ~~shall~~must be observed:

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

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

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

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

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

46 (E) normal court procedures ~~shall~~must be approximated as nearly as  
47 possible;

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

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

52 (c) In any abuse, neglect, ~~and~~ dependency, or substantiation proceedings, the court may  
53 order that the testimony of any child be taken outside the courtroom and be recorded.  
54 That testimony is admissible as evidence, for viewing in any court proceeding regarding  
55 the allegations if the provisions of Subsection (b) are observed, in addition to the  
56 following provisions:

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

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

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

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

64 (d) If the court orders that the testimony of a child be taken under Subsection (b) or (c),  
65 the child may not be required to testify in court at any proceeding where the recorded  
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**Rule 37A. Visual recording of statement or testimony of child in abuse, neglect, dependency, or substantiation proceedings - Conditions of admissibility.**

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30 the following conditions must be observed:

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33 and emotional well-being of the child may be with the child during the testimony.  
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(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.

## UTAH COURT RULES – PUBLISHED FOR COMMENT

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### Rules of Juvenile Procedure – Comment Period Closed July 1, 2023

**URJP037A.** Visual recording of statement or testimony of child in abuse, neglect and dependency proceedings – Conditions of admissibility. Amend. The proposed amendments to Rule 37A include adding substantiation proceedings to the title and to paragraphs (b) and (c). The changes also include replacing the language “shall” with “must” or “will” to comply with the Supreme Court Style Guide.

This entry was posted in [-Rules of Juvenile Procedure, URJP037A.](#)

« [Rules of Evidence – Comment Period Closed July 1, 2023](#)

[Rules Governing the Utah State Bar and Rules of Professional Practice – Comment Period Closed June 19, 2023](#) »

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- [CJA02-0104](#)
- [CJA02-0106.01](#)
- [CJA02-0106.02](#)
- [CJA02-0106.03](#)
- [CJA02-0106.04](#)
- [CJA02-0106.05](#)
- [CJA02-0204](#)
- [CJA02-0206](#)
- [CJA02-0208](#)
- [CJA02-0208](#)
- [CJA02-0211](#)
- [CJA02-0212](#)
- [CJA03-0101](#)
- [CJA03-0102](#)
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- [CJA03-0104](#)
- [CJA03-0105](#)
- [CJA03-0106](#)
- [CJA03-0106](#)
- [CJA03-0107](#)
- [CJA03-0108](#)
- [CJA03-0109](#)
- [CJA03-0111](#)
- [CJA03-0111.01](#)

# TAB 5



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

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

9

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7    pertaining to the posting of the bail and any forfeiture shall be governed by Utah Code  
8    Title 77, Chapter 20, Parts 4 and 5.

9

# TAB 6

**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

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**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    

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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;

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

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

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

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

**80-6-1001. Definitions.**

As used in this part:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) set a date for a hearing; and

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

(A) that a petition has been filed; and

(B) of the date of the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

**Order.**

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

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

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

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

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

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

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

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

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

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

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

(i) set a date for a hearing; and

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

(A) that the petition has been filed; and

(B) of the date of the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

(b)(ii):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the individual has reached 18 years old;

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

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

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

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

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

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

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

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

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

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

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

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

754 have occurred if:

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

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

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

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

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

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

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

767 (2) The juvenile court may not order:

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

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

777 (i) the record is unsupported; or

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

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

782 record.

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

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

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

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

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

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

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

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

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

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

805 (ii) housing of the individual;

806 (iii) applicable guidelines regarding the individual; or

807 (iv) supervision conditions for the individual;

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



Pardons and Parole or the Department of Corrections; and

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

(6) Upon entry of an expungement order:

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

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

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

Section 20. **Repealer.**

This bill repeals:

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

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

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

Section 21. **Effective date.**

This bill takes effect on October 1, 2023.

**Rule 17. The petition.****(a) Delinquency cases.**

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

(2) For all non-felony-level offenses, the petition shall state the specific condition that allows the filing of the petition pursuant to Utah Code section 80-6-303.5, 80-6-304.5, 80-6-30504.

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

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

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

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

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

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

**(c) Other cases.**

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

(2) Petitions for adjudication expungements must meet all of the criteria of Utah Code section 80-6-1004.1 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 80-6-1004.25 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

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

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

**Rule 17. The petition.****(a) Delinquency cases.**

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

(2) For all non-felony-level offenses, the petition shall state the specific condition that allows the filing of the petition pursuant to Utah Code section 80-6-303.5, 80-6-304.5, 80-6-305.

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

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

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

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

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

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

**(c) Other cases.**

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

(2) Petitions for adjudication expungements must meet all of the criteria of Utah Code section 80-6-1004.1 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 80-6-1004.2 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

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

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

# TAB 7



**Rule 56. Expungement.**

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

**(b) Adjudication expungement.**

(1) Upon filing the petition, the clerk shall calendar the matter for hearing and give at least 30 days' notice to the prosecuting attorney, the Juvenile Probation Department, the agency with custody of the records, and any victim or victim's representative of record on each adjudication identified by petitioner as being subject to expungement who have requested in writing notice of further proceedings. The petitioner may be required to obtain and file verifications from local law enforcement agencies in every community in which the petitioner has resided stating whether petitioner has a criminal record. The court may waive the hearing if there is no victim, or if there is a victim, the victim must agree to the waiver. The prosecuting attorney must also agree to the waiver.

(2) If the court finds, upon hearing, that the conditions for expungement under Utah Code section 80-6-1004.1 have been satisfied, the court shall order the records of the case sealed as provided in Utah Code section 80-6-1004.1.

(c) **Nonjudicial expungement.** A person whose juvenile record consists solely of nonjudicial adjustments, as provided for in Utah Code section 80-6-304, may petition the court for expungement as provided for in Utah Code section 80-6-1004.25.

(d) **Delinquency records expungement.** A person whose juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication may petition the court for expungement as provided for in Utah Code section 80-6-1004.3.

(e) Petition not found to be true expungement. A person whose record contains allegations found not to be true by the juvenile court may petition the court for an expungement as provided for in Utah Code section 80-6-1004.4.

(f) The court will send a copy of the expungement order to any affected agency or official identified in the juvenile record.

(g) The clerk shall~~will~~ provide certified copies of the executed expungement order ~~of expungement~~, at no cost, to the petitioner, and the petitioner shall~~may~~ deliver a copy ~~iesy~~ of the expungement order to each~~all~~ agencies and officials in the State of Utah identified ~~in~~affected by the expungement order.

**Rule 56. Expungement.**

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

**(b) Adjudication expungement.**

(1) Upon filing the petition, the clerk shall calendar the matter for hearing and give at least 30 days' notice to the prosecuting attorney, the Juvenile Probation Department, the agency with custody of the records, and any victim or victim's representative of record on each adjudication identified by petitioner as being subject to expungement who have requested in writing notice of further proceedings. The petitioner may be required to obtain and file verifications from local law enforcement agencies in every community in which the petitioner has resided stating whether petitioner has a criminal record. The court may waive the hearing if there is no victim, or if there is a victim, the victim must agree to the waiver. The prosecuting attorney must also agree to the waiver.

(2) If the court finds, upon hearing, that the conditions for expungement under Utah Code section 80-6-1004.1 have been satisfied, the court shall order the records of the case sealed as provided in Utah Code section 80-6-1004.1.

(c) **Nonjudicial expungement.** A person whose juvenile record consists solely of nonjudicial adjustments, as provided for in Utah Code section 80-6-304, may petition the court for expungement as provided for in Utah Code section 80-6-1004.2.

(d) **Delinquency records expungement.** A person whose juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication may petition the court for expungement as provided for in Utah Code section 80-6-1004.3.

26 (e) **Petition not found to be true expungement.** A person whose record contains  
27 allegations found not to be true by the juvenile court may petition the court for an  
28 expungement as provided for in Utah Code section 80-6-1004.4.

29 (f) The court will send a copy of the expungement order to any affected agency or official  
30 identified in the juvenile record.

31 (g) The clerk will provide certified copies of the executed expungement order, at no cost,  
32 to the petitioner, and the petitioner may deliver copies of the expungement order to all  
33 agencies and officials affected by the expungement order.

# TAB 8

**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~~ 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 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.