



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

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting
Date: April 5, 2024
Time: 12:00 pm – 2:00 pm

| | | |
|--|-------|-----------------|
| Action: Welcome and approval of March 1, 2024, meeting minutes. | Tab 1 | Matthew Johnson |
| Discussion & Action: Rule 5 . Definitions. <ul style="list-style-type: none"><i>Senate Bill 88 modifies the definition of adjudication. Does this change have an impact on the term adjudication as defined in Rule 5?</i> | | All |
| Discussion & Action: New Rule 13A. Limited-purpose-party intervention. <ul style="list-style-type: none"><i>Rule 13A was presented to the Supreme Court on March 27, 2024. The Court made several suggested revisions. The rule is being brought back to the Committee for further discussion.</i> | Tab 2 | All |
| Discussion: Rule 15 . Preliminary inquiry; informal adjustment without petition. <ul style="list-style-type: none"><i>The Committee recently revised paragraph (f) to be consistent with Utah Code section 80-6-304.</i><i>Committee staff and law clerks propose additional revisions to Rule 15.</i> | Tab 3 | All |

| | | |
|--|-------|-----|
| <p>Discussion & Action: Rule 22. Initial appearance and preliminary hearing in cases under Utah Code sections 80-6-503 and 80-6-504.</p> <ul style="list-style-type: none"> • House Joint Resolution 13 was passed at the 2024 Legislative Session. HJR013 amends Rule 7B of the Utah Rules of Criminal Procedure and Rule 1102 of the Utah Rules of Evidence. HJR013 may also impact Rule 22. | Tab 4 | All |
| <p>Discussion & Action: Rule 31. Initiation of truancy proceedings.</p> <ul style="list-style-type: none"> • House Bill 362 allows schools to refer youth to the juvenile court for being a habitual truant; however, the referral, it seems, may not be petitioned. Should Rule 31 be repealed? | | All |
| <p>Discussion & Action: In-person, Remote, and Hybrid Hearings.</p> <ul style="list-style-type: none"> • The latest update regarding in-person, remote, and hybrid hearings will be shared. • Two slightly different rule versions are included. | Tab 5 | All |
| <p>Discussion: Old business or new business.</p> | | All |

[URJP Committee Site](#)

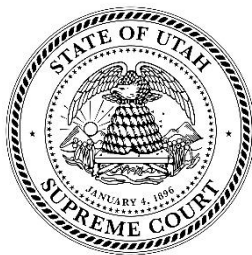
Meeting Schedule:

May 3, 2024 (In-person)
September 6, 2024

June 7, 2024
October 4, 2024

August 2, 2024
November 1, 2024

TAB 1



1
2
3 **Utah Supreme Court's**
4 **Advisory Committee on the Rules of Juvenile Procedure**

5 **Draft Meeting Minutes**

6
7 *Matthew Johnson, Chair*

8
9 Location: Webex Meeting

10
11 Date: March 1, 2024

12
13 Time: 12:00 p.m. – 2:00 p.m.

14

| | |
|---|--|
| <p><u>Attendees:</u> Matthew Johnson, Chair Thomas Luchs Dawn Hautamaki Adrianna Davis Sophia Moore Judge Paul Dame Janette White Arek Butler Judge Debra Jensen Michelle Jeffs James Smith David Fureigh, Emeritus Member</p> | <p><u>Excused Members:</u> William Russell Elizabeth Ferrin Jordan Putnam</p> |
| | <p><u>Guests:</u></p> |
| <p><u>Staff:</u> Randi Von Bose, Juvenile Law Clerk Lisa McQuarrie, Juvenile Law Clerk Raymundo Gallardo Kiley Tilby, Recording Secretary</p> | |

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62

1. Welcome and approval of the February 2, 2024, Meeting Minutes: (Matthew Johnson)

Mr. Johnson welcomed everyone to the meeting. Mr. Johnson asked the committee for approval of the February 2, 2024, meeting minutes. Ms. Moore moved to approve the minutes. Arek Butler seconded the motion, and it passed unanimously.

2. Welcome and approval of the February 23, 2024, Meeting Minutes: (Matthew Johnson)

Mr. Johnson asked the committee for approval of the February 23, 2024, meeting minutes. Ms. Moore moved to approve the minutes. Arek Butler seconded the motion, and it passed unanimously. Mr. Johnson expressed appreciation to those of the committee who were able to attend that meeting on short notice.

3. Discussion & Action: Rule 19C. Delinquency, Traffic and Adult Criminal Matters: (All)

Mr. Johnson stated the comment period closed on February 3, 2024, on the proposed amendments to Rule 19C and there were no comments received. Mr. Johnson asked the committee for a motion to send to the Supreme Court for final publication. Judge Dame motioned to send to the Supreme Court for final publication. Judge Jensen seconded the motion, and it passed unanimously.

4. Discussion & Action: New Rule 13A. Limited-Purpose Intervention: (All)

Mr. Johnson stated this committee was going to continue their discussion regarding the language regarding limited-purpose intervention. Mr. Johnson reminded the committee that at the last meeting, the committee wanted to move this agenda item over for further discussion so those who were on the subcommittee could be present to give their input. Mr. Johnson stated he believes the only question was regarding whether to use the term limited-purpose intervention or limited-purpose-party intervention. Judge Dame indicated that was his recollection as well. Judge Dame stated this committee set forth their opinions, but Judge Jensen had to leave early, and this committee did not want to make any changes without her input due to her being on the subcommittee.

Judge Jensen stated she looked at the case, *In re J.T.*, again and also looked at definitions, and she is okay with either version. Judge Jensen indicated that as she has been looking at it, *In re J.T.* does state they are really granting limited-purpose intervenor status, which is what this committee proposed. However, the language in the case then changes to limited-purpose-party when referencing the person who is intervening. Judge Jensen noted that when she looked at definitions of intervenor versus party, if they are a full fledge intervenor then they almost have party status, so she doesn't have heartburn with either one at this point.

63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107

Mr. Johnson stated if he recalls from the previous discussion, Mr. Fureigh and Ms. Ferrin were leaning more towards a limited-purpose-party. Judge Dame indicates he also recalls that that was sort of the consensus, and he doesn't feel strongly about it. Judge Dame stated he likes limited-purpose-party because it mirrors the language that the case relied on. Mr. Butler stated he also does not have a strong opinion about it, but he thinks this committee should adopt limited-purpose-party intervention and vote on it.

Mr. Gallardo stated he wants to ensure the committee looks through the draft again before a vote. Judge Dame believes it looks good as written and it is a good compromise to refer to them as limited-purpose-party intervenor throughout because it ends up being precise about what exactly they are. Mr. Johnson agreed, especially from the child welfare side.

Mr. Johnson asked the committee for a motion to send it to the Supreme Court for approval and public comment. Mr. Butler made the motion, and Ms. White seconded. It passed unanimously.

5. Discussion & Action: In-person, Remote and Hybrid Hearings: (All)

Mr. Johnson stated he and Mr. Gallardo had their meeting with the Supreme Court this week. The Supreme Court was very grateful for all the effort this committee put into the changes that were made to the supplied rule on calendaring and appearance. Mr. Johnson indicated he explained to the Supreme Court the areas this committee had concerns. Mr. Johnson stated the justices were pushing him regarding the section dealing with non-stipulated motions. Mr. Johnson explained to the Supreme Court how the process works and the reason why this committee recommended the 96 hours and the other timeframes with regard to that. Mr. Johnson stated the justices were very gracious and they had also met with the other committee chairs and a lot of them had the same concerns as this committee. Mr. Johnson also discussed Rule 29B with the justices and that the main thing this committee wanted the justices to know is the difference between evidentiary versus non-evidentiary hearings and why it's important to have that distinction.

Mr. Johnson stated Mr. Stiles sent out an e-mail requesting two to three individuals from this committee that may be willing to work with the other committee members of the Rules of Civil Procedure and the Rules of Criminal Procedure. Mr. Johnson stated they did not provide dates or times for when this meeting would occur, but they said they would send out a Doodle poll once they had the contact information of those who were willing to participate to see which date works best for everyone. Mr. Johnson inquired if there were any members willing to sacrifice some of their time to help the other committees and represent this committee. Judge Dame, Judge Jensen, Janette White, and Mr. Johnson will participate in that subcommittee.

108 Mr. Gallardo stated the plan is to get this done quickly and the timeframe would be
109 to meet next week and the week after. Mr. Gallardo stated the volunteers will meet
110 with Justice Pohlman who is leading the effort to create a uniform rule within the
111 three bodies of the rules of procedure, but also identify the distinctions where there
112 should be distinctions. Judge Dame indicated he spoke to another juvenile judge
113 yesterday about the project. That judge was asked by Sonia Sweeney to be on a
114 committee that would work with the civil, criminal, and juvenile rules committees.
115 The judge had mentioned they would also have the legislature there who is
116 sponsoring, or threatening to sponsor, either a 2/3 vote to redo the rules or legislation
117 dealing with this issue. Judge Dame stated he believes the desire is to have all rules
118 of procedure be consistent in the approach taken regarding remote hearings.

119
120 Mr. Johnson stated in speaking with the justices, he understands that they have been
121 able to hold back the legislative push to deal with this issue since the committees and
122 AOC have been able to tackle the issue quickly, but they want to ensure it continues
123 to be worked on. Judge Dame stated he was also told that they want the committee
124 to work from the template of the proposed rule that this committee worked on last
125 week, and not an entirely different rule. Mr. Johnson stated when he presented the
126 committee's changes from the proposed rule/template, he also informed the justices
127 that this committee felt very strongly about Rule 29B and the language that was used.
128 Mr. Johnson stated the justice may want this committee to work on that, but he agrees
129 with Judge Dame and the committee that there does need to be some distinguishing
130 language in there. Mr. Johnson indicated that for the most part, this committee
131 changed the template completely in a positive direction and the justices were
132 receptive as they did not know some of the issues this committee saw.

133
134 Mr. Johnson will let Mr. Stiles know the names and information of those on this
135 committee who are willing to participate so he can send out the Doodle poll.

136
137 Judge Dame stated the dream would be for this committee to be able to say the
138 problems do not lie in juvenile court. Judge Dame indicated he is not aware of any
139 concerns anyone has raised with how the juvenile court is approaching this issue,
140 even though there are different approaches. Judge Dame stated ideally, the juvenile
141 court would be able to carve out their own rule to include similar language as Rule
142 28B because it is succinct, precise, and gives discretion to the judges. However, Judge
143 Dame does not think that will be acceptable, and the justices will say they want a rule
144 in the civil, criminal, and juvenile rules that are consistent with each other. Judge
145 Dame wants to ensure the concerns that were raised by this committee are addressed,
146 which include *ex parte* communication, lack of response opportunity, and stuff that
147 violates simple basic rules of procedure, basic rules of due process, and fundamental
148 fairness. Judge Dame stated if we are working off the template/proposed rule
149 already provided, this committee will need to address it with the other individuals
150 who are working on it as well.

151
152 Mr. Gallardo stated Rule 37B may not be relevant soon, but Ms. Von Bose was tasked
153 with researching the applicability of the right to confrontation in termination of

154 parental rights proceedings. Ms. Von Bose stated she researched *In re L.M.*, and that
155 is still the controlling authority on this matter. Ms. Von Bose stated the law clerk's
156 previous memo remains good analysis and this committee can rely on that if and
157 when this committee gets to the point of including the confrontation clause in Rule
158 37B.

159
160 Ms. White inquired if the Supreme Court talked about the end of the rule regarding
161 the judge's compliance. Mr. Johnson stated he didn't really address that, but that it
162 can be addressed in future meetings. Mr. Johnson wanted the Supreme Court to
163 know the biggest concerns, and that the crux of the rule this committee gutted to
164 make it conform with due process and quick remedies to the issues that were seen.
165 Mr. Johnson agrees with Ms. White that he doesn't know why they want it in there
166 unless it was a push from the legislature to hold the judges accountable. Mr. Gallardo
167 indicated he got the sense that the enforcement mechanism is what they want in there
168 and may be non-negotiable.

169
170 **6. Discussion: Rule 15. Preliminary Inquiry; Informal Adjustment Without Petition:**
171 **(All)**

172
173 Mr. Johnson stated this committee was going to continue the discussion regarding
174 subpart (f) in conjunction with 80-3-204. Mr. Gallardo stated Judge Dame and Mr.
175 Russell had proposed language. Judge Dame stated he is okay with either proposal
176 and is fine with Mr. Russell's approach as it is clear and concise. Judge Dame stated
177 his approach was to make as few changes as possible to the current language, but Mr.
178 Russell's approach may be more precise regarding what the issues are, which is the
179 timeframe to complete a non-judicial agreement and any extension. Judge Dame
180 indicated he is leaning towards Mr. Russell's approach being better. Judge Dame
181 would move to adopt Mr. Russell's suggested approach, take it to the Supreme Court
182 for approval, and send it out for public comment. Judge Jensen seconded and it
183 passed unanimously.

184
185 The proposed change to subpart (f) will read as follows: "The initial time in which to
186 complete a nonjudicial adjustment, and any extensions thereof, will be governed by
187 Utah Code section 80-6-304."

188
189 **7. Discussion: Rule 50. Presence at Hearings: (All)**
190

191 Mr. Johnson stated this committee was going to continue discussion about excluding
192 people from the hearing, including remote hearings. Mr. Johnson stated this
193 committee had a good discussion on this the last time it was reviewed. Judge Dame
194 indicated the proposed change would be to subpart (d) to add "or the hearing" to
195 make sure the court is on solid ground to either mute people in a remote hearing or
196 exclude them altogether, after a warning, if they continue to disrupt the hearing. Mr.
197 Gallardo is also changing the "shalls" to "will" since they are making the change
198 anyway to be consistent with the guidelines. Judge Dame stated he would make a
199 motion to send it to the Supreme Court for approval and public comment. Janette

200 White seconded the motion, and it passed unanimously. Mr. Johnson stated he will
201 put it on the agenda for the next meeting with the Supreme Court.

202

203 **8. Old business/new business: (All)**

204

205 Mr. Johnson inquired if there is any new or old business that this committee needs to
206 discuss. Mr. Gallardo stated this committee had been working on Rule 18 for quite
207 some time. Mr. Gallardo indicated this committee made changes to Rule 18 and
208 added the bilingual notice to be included in the Summons. Mr. Gallardo stated they
209 just received approval of the bilingual notice, and Rule 18 will be effective May 1,
210 2024. Mr. Gallardo stated the English version has been approved, and the bilingual
211 notices are almost finished for the other languages. Mr. Gallardo anticipates the
212 juvenile court bilingual notices will be posted when they are available.

213

214 Mr. Gallardo inquired about education on the process, and whether sending a notice
215 to the Utah State Bar to inform them of the change is enough. Judge Dame stated to
216 be consistent and to remain neutral, his opinion is to have the Utah State Bar send
217 out notice and have the form available on the Utah Court's website and leave it at
218 that. Judge Dame stated if the individual entities like the Office of Guardian ad Litem
219 or Attorney General's office want to train their individuals in-house, that should be
220 left to them.

221

222 Mr. Gallardo stated he also just received a house joint resolution which amends 7B
223 of the Utah Rules of Criminal Procedure and 1102 of the Utah Rules of Evidence. Mr.
224 Gallardo stated this bill doesn't specifically mention the juvenile rules, but he wanted
225 to put it on the committee's radar so everyone can look at it and determine if any
226 changes need to be made to the juvenile rules. Mr. Gallardo will send it out to all
227 committee members. Ms. Von Bose stated it is effective immediately.

228

229 No additional old or new business was discussed.

230

231

232 The meeting adjourned at 12:42 PM. The next meeting will be held on April 5, 2024
233 via Webex.

TAB 2

1 **Rule 13A. Limited-purpose-party intervention.**

2 Intervention will be governed by Rule 24 of the Utah Rules of Civil Procedure except as
3 follows:

4 (a) **Limited-purpose-party intervenor status.** When a relative or friend, other than a
5 natural parent, asserts an interest to the court of becoming a placement for a child
6 pursuant to Utah Code section 80-3-302, the court will allow the relative or friend to have
7 a limited interest in the child welfare matter with respect to a determination of placement.

8 (b) **Records access.** A limited-purpose-party intervenor will not have access to court
9 records, except as provided below. After notice and opportunity to be heard, if the court
10 determines certain court records are relevant to the issue of placement, the court may
11 order those court records to be provided to the limited-purpose-party intervenor.

12 (c) **Burden of proof.** The limited-purpose-party intervenor will have the burden to prove
13 by a preponderance why it is in the child(ren)'s best interest to grant the intervenor's
14 request for placement of the child(ren).

Rule 13A. Limited-purpose intervention.

(a) **Scope.** This rule applies to the intervention of a friend or relative in a child welfare matter for the limited purpose of determining the placement of a child. It supersedes Rule 24 of the Utah Rules of Civil Procedure for this limited purpose.

(b) **Limited-purpose intervenor.** On timely motion, the court will permit a relative or friend to intervene in a child welfare matter for the limited purpose of being considered for a child placement under 80-3-302(6).

[OR]

(b) **Limited-purpose intervenor.** On timely motion, the court will permit a relative or friend to intervene in a child welfare matter for the limited purpose of being considered for the placement of a child who has been removed from the custody of the child's parent and is not placed in the custody of the child's other parent.

(c) **Record access.** A limited-purpose intervenor will not have access to court records unless the court determines, after providing the parties with notice and an opportunity to be heard, that certain court records are relevant to the issue of a child's placement with the intervenor.

(d) **Burden of proof.** A limited-purpose intervenor has the burden to prove by a preponderance of evidence why it is in the child's best interest to grant the intervenor's request for placement of the child with the intervenor.

TAB 3

1 **Rule 15. Preliminary inquiry; informal adjustment without petition.**

2 (a) If the minor qualifies for a nonjudicial adjustment pursuant to statute, the probation
3 intake officer ~~must~~shall offer a nonjudicial adjustment to the minor.

4 (b) If a minor does not qualify for a nonjudicial adjustment, the probation intake officer
5 may conduct one or more interviews with the minor, or if a child, then with the child and
6 at least one of the child's parents_s, guardians_s, or custodians_s and may invite the referring
7 party and the victim, if any, to attend or otherwise seek further information from them.
8 Attendance at any such interview ~~must~~shall be voluntary_z and the probation intake
9 officer may not compel the disclosure of any information or the visiting of any place.

10 (c) In any such interview, the minor, or if a child, then the child and the child's parent,
11 guardian_z or custodian must be advised that the interview is voluntary, that they have a
12 right to have counsel present to represent the minor, that the minor has the right not to
13 disclose any information, and that any information disclosed, ~~which that~~ which could tend to
14 incriminate the minor_z cannot be used against the minor in court to prove whether the
15 minor committed the offense alleged in the referral.

16 (d) If ~~the probation intake officer concludes~~ on the basis of the preliminary inquiry, the
17 probation intake officer concludes that nonjudicial adjustment is appropriate and is
18 authorized by law, the officer may seek agreement with the minor, or if a child, then with
19 the child and the child's parents_s, guardians_s, or custodians_s to a proposed nonjudicial
20 adjustment.

21 (e) If an agreement is reached and the terms and conditions agreed upon are satisfactorily
22 complied with by the minor, or if a child, then with the child and the child's parents_s,
23 guardians_s, or custodians_s, the case ~~must~~shall be closed without petition. Such resolution
24 of the case ~~will~~shall not be deemed an adjudication of jurisdiction of the court and
25 ~~will~~shall not constitute an official record of juvenile court action or disposition. A
26 nonjudicial adjustment may be considered by the probation intake officer in a subsequent

27 preliminary inquiry and by the court for purposes of disposition only, following
28 adjudication of a subsequent delinquency involving the same minor.

29 (f) The initial time in which to complete a nonjudicial adjustment, and any extensions
30 thereof, will be governed by Utah Code section 80-6-304.~~Attempts to effect nonjudicial~~
31 ~~adjustment of a case shall not extend beyond 90 days without authorization by the court,~~
32 ~~and then for no more than an additional 90 days.~~

33

1 **Rule 15. Preliminary inquiry; informal adjustment without petition.**

2 (a) If the minor qualifies for a nonjudicial adjustment pursuant to statute, the probation
3 intake officer must offer a nonjudicial adjustment to the minor.

4 (b) If a minor does not qualify for a nonjudicial adjustment, the probation intake officer
5 may conduct one or more interviews with the minor, or if a child, then with the child and
6 at least one of the child's parents, guardians, or custodians and may invite the referring
7 party and the victim, if any, to attend or otherwise seek further information from them.
8 Attendance at any such interview must be voluntary, and the probation intake officer
9 may not compel the disclosure of any information or the visiting of any place.

10 (c) In any such interview, the minor, or if a child, then the child and the child's parent,
11 guardian, or custodian must be advised that the interview is voluntary, that they have a
12 right to have counsel present to represent the minor, that the minor has the right not to
13 disclose any information, and that any information disclosed, which could tend to
14 incriminate the minor, cannot be used against the minor in court to prove whether the
15 minor committed the offense alleged in the referral.

16 (d) If, on the basis of the preliminary inquiry, the probation intake officer concludes that
17 nonjudicial adjustment is appropriate and is authorized by law, the officer may seek
18 agreement with the minor, or if a child, then with the child and the child's parents,
19 guardians, or custodians to a proposed nonjudicial adjustment.

20 (e) If an agreement is reached and the terms and conditions agreed upon are satisfactorily
21 complied with by the minor, or if a child, then with the child and the child's parents,
22 guardians, or custodians, the case must be closed without petition. Such resolution of the
23 case will not be deemed an adjudication of jurisdiction of the court and will not constitute
24 an official record of juvenile court action or disposition. A nonjudicial adjustment may
25 be considered by the probation intake officer in a subsequent preliminary inquiry and by
26 the court for purposes of disposition only, following adjudication of a subsequent
27 delinquency involving the same minor.

28 (f) The initial time in which to complete a nonjudicial adjustment, and any extensions
29 thereof, will be governed by Utah Code section 80-6-304.

30

TAB 4

1 **Rule 22. Initial appearance and preliminary hearing in cases under Utah Code sections**
2 **80-6-503 and 80-6-504.**

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

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

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

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

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

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

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

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

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

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

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

28 (f) The minor may not be called on to enter a plea. During the initial appearance, the
29 minor will be advised of the right to a preliminary hearing. If the minor waives the right
30 to a preliminary hearing, the court will proceed in accordance with Rule 23A to hear
31 evidence regarding the factors contained in Utah Code section 80-6-504(3).

32 (g) If the minor does not waive a preliminary hearing, the court will schedule the
33 preliminary hearing. The preliminary hearing will be held within a reasonable time, but
34 not later than 10 days after the initial appearance if the minor is in custody for the offense
35 charged. The preliminary hearing will be held within a reasonable time, but not later than
36 30 days after the initial appearance if the minor is not in custody. The time periods of this
37 rule may be extended by the court for good cause shown.

38 (h) If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-
39 6-503, the court will proceed in accordance with Utah Code section 80-6-504(11).

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

44 (j) If from the evidence the court finds probable cause under Utah Code section 80-6-
45 504(2)(a), the court will proceed in accordance with Rule 23A to hear evidence regarding
46 the factors contained in Utah Code section 80-6-504(3).

47 (k) The finding of probable cause may be based, in whole or in part, on reliable hearsay
48 as described in Rule 7B(d)(2) of the Utah Rules of Criminal Procedure and Rule 1102(e)
49 of the Utah Rules of Evidence. ~~but may not be based solely on reliable hearsay evidence~~
50 ~~admitted under Rule 1102(b)(8) of the Utah Rules of Evidence.~~ Objections to evidence on
51 the ground that it was acquired by unlawful means are not properly raised at the
52 preliminary hearing.

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

58 (m) At a preliminary hearing, upon request of either party, and subject to Title 77, Chapter
59 38, Rights of Crime Victims Act, the court may:

60 (1) exclude witnesses from the courtroom;

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

63 (3) exclude spectators from the courtroom.

1 **Rule 22. Initial appearance and preliminary hearing in cases under Utah Code sections**
2 **80-6-503 and 80-6-504.**

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

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

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

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

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

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

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

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

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

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

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

28 (f) The minor may not be called on to enter a plea. During the initial appearance, the
29 minor will be advised of the right to a preliminary hearing. If the minor waives the right
30 to a preliminary hearing, the court will proceed in accordance with Rule 23A to hear
31 evidence regarding the factors contained in Utah Code section 80-6-504(3).

32 (g) If the minor does not waive a preliminary hearing, the court will schedule the
33 preliminary hearing. The preliminary hearing will be held within a reasonable time, but
34 not later than 10 days after the initial appearance if the minor is in custody for the offense
35 charged. The preliminary hearing will be held within a reasonable time, but not later than
36 30 days after the initial appearance if the minor is not in custody. The time periods of this
37 rule may be extended by the court for good cause shown.

38 (h) If a grand jury indicts a minor for a qualifying offense listed in Utah Code section 80-
39 6-503, the court will proceed in accordance with Utah Code section 80-6-504(11).

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

44 (j) If from the evidence the court finds probable cause under Utah Code section 80-6-
45 504(2)(a), the court will proceed in accordance with Rule 23A to hear evidence regarding
46 the factors contained in Utah Code section 80-6-504(3).

47 (k) The finding of probable cause may be based, in whole or in part, on reliable hearsay
48 as described in Rule 7B(d)(2) of the Utah Rules of Criminal Procedure and Rule 1102(e)
49 of the Utah Rules of Evidence. Objections to evidence on the ground that it was acquired
50 by unlawful means are not properly raised at the preliminary hearing.

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

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

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

58 (1) exclude witnesses from the courtroom;

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

61 (3) exclude spectators from the courtroom.

TAB 5

1 Rule XXX. Manner of calendaring and appearance for remote hearings.

2 (a) **Intent.** The intent of this rule is to establish a clear process regarding the manner in
3 which hearings are calendared and a presumption that the court should accommodate
4 the preferences of the participants when determining the manner of participant
5 appearances for court hearings.

6 (b) **Applicability.** This rule applies to civil, ~~and~~ criminal, and delinquency matters in
7 ~~district, juvenile, and justice~~ courts.

8 (c) **Statement of the Rule.**

9 (1) **Definitions.**

10 (A) "Participant" means a named party, counsel for a named party, a parent
11 of a minor in a delinquency matter, or a victim in a delinquency matter,
12 ~~and any third party who is required to attend court, including a witness.~~

13 (B) "Hybrid hearing" means a hearing at which some participants appear
14 in person and others appear remotely.

15 (C) "In-person hearing" means a hearing at which it is intended that all
16 participants will be physically present in the courtroom.

17 (D) "Remote hearing" means a hearing at which it is intended that no
18 participants will be physically present in the courtroom but will instead
19 appear by video conference or other electronic means approved by the
20 Judicial Council.

21 (2) General rule. The court may schedule any hearing in-person, remotely, or
22 hybrid as set forth below.

23 (3) **Notice of hearing type.** When calendaring a hearing the court must provide
24 the participants with notice as to whether the court intends the hearing to be an
25 in-person hearing, a remote hearing, or a hybrid hearing. In determining whether

26 a particular hearing is calendared as an in-person, remote, or hybrid hearing, the
27 court must consider:

28 (A) the potential length of the hearing;

29 (B) the burden of appearing in person compared to appearing remotely,
30 including time and economic impacts;

31 (C) the availability of adequate technology for the court and participants to
32 accomplish the purposes of the hearing;

33 (D) the complexity of issues to be addressed at the hearing, including the
34 number of participants or exhibits;

35 (E) whether testimonial evidence is likely to be presented; and

36 (F) any other relevant factor that a participant brings to the court's attention
37 regarding a specific hearing.

38 **(4) Communication of participant preference.**

39 (A) A participant may request that the participant or a witness to appear in
40 person or remotely by filing a motion, making a verbal request during a
41 hearing, or by email. The request must state the reasons for the request. If
42 made by motion or email, the request must be made at least seven days
43 prior to the scheduled hearing, unless there are exigent circumstances.
44 ~~communicating the participant's preference to the court. A participant's~~
45 ~~preference may be flexibly communicated to the court, directly or through~~
46 ~~a party, using any of the following methods:~~

47 ~~(i) orally during a hearing;~~

48 ~~(ii) by email or letter; or~~

49 ~~(iii) in a court filing.~~

50 (B) If the request is made by email:

51 (i) the participant must contact the court to obtain the email address
52 to be used for the court;

53 (ii) the participant must copy the other parties;

54 (iii) the participant must clearly indicate on the subject line the
55 request being made; and

56 (iv) the court will file the email in the court record.

57 (C) Any party may object to any request made under this rule. The objection
58 must state the reason for the objection. The objection must be made within
59 four days of the request. The court may rule on the request based on the
60 request and the objection without further input, or the court may set it for
61 a remote hearing to address the request.

62 ~~(B) For the court to consider a participant's preference, a participant must~~
63 ~~communicate the participant's preference as soon as reasonably possible in~~
64 ~~advance of the hearing, but no later than 24 hours before the scheduled~~
65 ~~hearing time, unless supported by good cause.~~

66 ~~(C) A participant may presume that a timely request is approved unless the~~
67 ~~court, based on a good cause reason in Subsection (4):~~

68 ~~(i) has already specifically directed the participant to appear for the~~
69 ~~hearing in a particular manner; or~~

70 ~~(ii) notifies the participant that the request is denied and directs the~~
71 ~~participant to appear for the hearing in a particular manner.~~

72 **(5) Court accommodation of participant preference.** The court must
73 accommodate a participant's timely communicated preference, unless the court
74 finds good cause on a case-by-case basis to order the participant to appear in a
75 particular manner based on:

- 76 (A) a constitutional or statutory right that requires a particular manner of
- 77 appearance or where there is a significant possibility that such a right
- 78 would be impermissibly diminished or infringed by appearing remotely;
- 79 (B) any participant’s safety, well-being, or specific situational needs;
- 80 (C) prior technological challenges that unreasonably contributed to delay
- 81 or a compromised record in the case;
- 82 (D) prior failure to demonstrate appropriate court decorum, including
- 83 attempting to participate from a location that is not conducive to
- 84 accomplishing the purpose of the hearing;
- 85 (E) prior failure to appear for a hearing of which the participant had notice;
- 86 (F) the possibility that the court may order a participant, who is not already
- 87 in custody, into custody;
- 88 (G) a participant’s involvement in a problem-solving court;
- 89 (H) the agreement of the parties;
- 90 (I) in limited circumstances, the court’s determination that the
- 91 consequential nature of a specific hearing requires all participants to appear
- 92 in person; [or](#)
- 93 [\(J\) any other relevant factor.](#)

94 **(6) Effect of preference on other participants.** The preference of one participant,

95 and the court’s accommodation of that preference, should not:

- 96 (A) dictate how any other participant appears for a hearing; or
- 97 (B) affect any other participant’s opportunity to request, and the court to
- 98 accommodate, a different preference for the other participant.

99 **(7) Court compliance and accountability.**

100 ~~(A) Compliance with this rule may be addressed in accordance with the Code of~~
101 ~~Judicial Administration. is part of the effective operation of the court, including~~
102 ~~docket management. As such, implementation and enforcement of this rule is a~~
103 ~~responsibility of each presiding judge pursuant to Rule 3-104.~~

104 ~~(B) A judge that demonstrates persistent non-compliance with this rule may~~
105 ~~be reported to the Judicial Council under Rule 2-211.~~

106 ~~(C) This rule does not prevent a court from:~~

107 ~~(i) issuing a warrant based upon a party's failure to appear as~~
108 ~~directed; or~~

109 ~~(ii) sanctioning a party for willful failure to comply with an order of~~
110 ~~the court.~~

111 Effective May/November 1, 20__

1 Rule XXX. Manner of calendaring and appearance for remote hearings.

2 (a) **Intent.** The intent of this rule is to establish a clear process regarding the manner in
3 which hearings are calendared and a presumption that the court should accommodate
4 the preferences of the participants when determining the manner of participant
5 appearances for court hearings.

6 (b) **Applicability.** This rule applies to civil, criminal, and delinquency matters in juvenile
7 court.

8 (c) **Statement of the Rule.**

9 (1) **Definitions.**

10 (A) "Participant" means a named party, counsel for a named party, a parent
11 of a minor in a delinquency matter, or a victim in a delinquency matter.

12 (B) "Hybrid hearing" means a hearing at which some participants appear
13 in person and others appear remotely.

14 (C) "In-person hearing" means a hearing at which it is intended that all
15 participants will be physically present in the courtroom.

16 (D) "Remote hearing" means a hearing at which it is intended that no
17 participants will be physically present in the courtroom but will instead
18 appear by video conference or other electronic means approved by the
19 Judicial Council.

20 (2) **General rule.** The court may schedule any hearing in-person, remotely, or
21 hybrid as set forth below.

22 (3) **Notice of hearing type.** When calendaring a hearing the court must provide
23 the participants with notice as to whether the court intends the hearing to be an
24 in-person hearing, a remote hearing, or a hybrid hearing. In determining whether
25 a particular hearing is calendared as an in-person, remote, or hybrid hearing, the
26 court must consider:

- 27 (A) the potential length of the hearing;
- 28 (B) the burden of appearing in person compared to appearing remotely,
29 including time and economic impacts;
- 30 (C) the availability of adequate technology for the court and participants to
31 accomplish the purposes of the hearing;
- 32 (D) the complexity of issues to be addressed at the hearing, including the
33 number of participants or exhibits;
- 34 (E) whether testimonial evidence is likely to be presented; and
- 35 (F) any other relevant factor that a participant brings to the court's attention
36 regarding a specific hearing.

37 **(4) Communication of participant preference.**

- 38 (A) A participant may request that the participant or a witness appear in
39 person or remotely by filing a motion, making a verbal request during a
40 hearing, or by email. The request must state the reasons for the request. If
41 made by motion or email, the request must be made at least seven days
42 prior to the scheduled hearing, unless there are exigent circumstances.
- 43 (B) If the request is made by email:
- 44 (i) the participant must contact the court to obtain the email address
45 to be used for the court;
- 46 (ii) the participant must copy the other parties;
- 47 (iii) the participant must clearly indicate on the subject line the
48 request being made; and
- 49 (iv) the court will file the email in the court record.
- 50 (C) Any party may object to any request made under this rule. The objection
51 must state the reason for the objection. The objection must be made within

52 four days of the request. The court may rule on the request based on the
53 request and the objection without further input, or the court may set it for
54 a remote hearing to address the request.

55 (5) **Court accommodation of participant preference.** The court must
56 accommodate a participant's timely communicated preference, unless the court
57 finds good cause on a case-by-case basis to order the participant to appear in a
58 particular manner based on:

59 (A) a constitutional or statutory right that requires a particular manner of
60 appearance or where there is a significant possibility that such a right
61 would be impermissibly diminished or infringed by appearing remotely;

62 (B) any participant's safety, well-being, or specific situational needs;

63 (C) prior technological challenges that unreasonably contributed to delay
64 or a compromised record in the case;

65 (D) prior failure to demonstrate appropriate court decorum, including
66 attempting to participate from a location that is not conducive to
67 accomplishing the purpose of the hearing;

68 (E) prior failure to appear for a hearing of which the participant had notice;

69 (F) the possibility that the court may order a participant, who is not already
70 in custody, into custody;

71 (G) a participant's involvement in a problem-solving court;

72 (H) the agreement of the parties;

73 (I) in limited circumstances, the court's determination that the
74 consequential nature of a specific hearing requires all participants to appear
75 in person; or

76 (J) any other relevant factor.

77 **(6) Effect of preference on other participants.** The preference of one participant,
78 and the court's accommodation of that preference, should not:

79 (A) dictate how any other participant appears for a hearing; or

80 (B) affect any other participant's opportunity to request, and the court to
81 accommodate, a different preference for the other participant.

82 **(7) Court compliance and accountability.** Compliance with this rule may be
83 addressed in accordance with the Code of Judicial Administration.

84 Effective May/November 1, 20__

1 Rule XXX. Manner of calendaring and appearance for remote hearings.

2 (a) **Intent.** The intent of this rule is to establish a clear process regarding the manner in
3 which hearings are calendared and a presumption that the court should accommodate
4 the preferences of the participants when determining the manner of participant
5 appearances for court hearings.

6 (b) **Applicability.** This rule applies to civil, ~~and~~ criminal, and delinquency matters in
7 ~~district, juvenile, and justice~~ courts.

8 (c) **Statement of the Rule.**

9 (1) **Definitions.**

10 (A) "Participant" means a named party, counsel for a named party, a parent
11 of a minor in a delinquency matter, or a victim in a delinquency matter,
12 ~~and any third party who is required to attend court, including a witness.~~

13 (B) "Hybrid hearing" means a hearing at which some participants appear
14 in person and others appear remotely.

15 (C) "In-person hearing" means a hearing at which it is intended that all
16 participants will be physically present in the courtroom.

17 (D) "Remote hearing" means a hearing at which it is intended that no
18 participants will be physically present in the courtroom but will instead
19 appear by video conference or other electronic means approved by the
20 Judicial Council.

21 (2) General rule. The court may schedule any hearing in-person, remotely, or
22 hybrid as set forth below.

23 (3) **Notice of hearing type.** When calendaring a hearing the court must provide
24 the participants with notice as to whether the court intends the hearing to be an
25 in-person hearing, a remote hearing, or a hybrid hearing. In determining whether

26 a particular hearing is calendared as an in-person, remote, or hybrid hearing, the
27 court must consider:

28 (A) the potential length of the hearing;

29 (B) the burden of appearing in person compared to appearing remotely,
30 including time and economic impacts;

31 (C) the availability of adequate technology for the court and participants to
32 accomplish the purposes of the hearing;

33 (D) the complexity of issues to be addressed at the hearing, including the
34 number of participants or exhibits;

35 (E) whether testimonial evidence is likely to be presented; and

36 (F) any other relevant factor that a participant brings to the court's attention
37 regarding a specific hearing.

38 **(4) Communication of participant preference.**

39 (A) A participant may request that the participant or a witness to appear in
40 person or remotely by filing a motion, making a verbal request during a
41 hearing, or by email. The request must state the reasons for the request. If
42 made by motion or email, the request must be made at least seven days
43 prior to the scheduled hearing, unless there are exigent circumstances.
44 ~~communicating the participant's preference to the court. A participant's~~
45 ~~preference may be flexibly communicated to the court, directly or through~~
46 ~~a party, using any of the following methods:~~

47 ~~(i) orally during a hearing;~~

48 ~~(ii) by email or letter; or~~

49 ~~(iii) in a court filing.~~

50 (B) If the request is made by email:

- 51 (i) the participant must contact the court to obtain the email address
52 to be used for the court;
- 53 (ii) the participant must copy the other parties;
- 54 (iii) the participant must clearly indicate on the subject line the
55 request being made; and
- 56 (iv) if there is an objection to the request, the participant must file a
57 copy of the email and any responses via eFiling.

58 (C) Any party may object to any request made under this rule. The objection
59 must state the reason for the objection. The objection must be made within
60 four days of the request. The court may rule on the request based on the
61 request and the objection without further input, or the court may set it for
62 a remote hearing to address the request.

63 ~~(B) For the court to consider a participant's preference, a participant must~~
64 ~~communicate the participant's preference as soon as reasonably possible in~~
65 ~~advance of the hearing, but no later than 24 hours before the scheduled~~
66 ~~hearing time, unless supported by good cause.~~

67 ~~(C) A participant may presume that a timely request is approved unless the~~
68 ~~court, based on a good cause reason in Subsection (4):~~

- 69 ~~(i) has already specifically directed the participant to appear for the~~
70 ~~hearing in a particular manner; or~~
- 71 ~~(ii) notifies the participant that the request is denied and directs the~~
72 ~~participant to appear for the hearing in a particular manner.~~

73 **(5) Court accommodation of participant preference.** The court must
74 accommodate a participant's timely communicated preference, unless the court
75 finds good cause on a case-by-case basis to order the participant to appear in a
76 particular manner based on:

- 77 (A) a constitutional or statutory right that requires a particular manner of
78 appearance or where there is a significant possibility that such a right
79 would be impermissibly diminished or infringed by appearing remotely;
- 80 (B) any participant’s safety, well-being, or specific situational needs;
- 81 (C) prior technological challenges that unreasonably contributed to delay
82 or a compromised record in the case;
- 83 (D) prior failure to demonstrate appropriate court decorum, including
84 attempting to participate from a location that is not conducive to
85 accomplishing the purpose of the hearing;
- 86 (E) prior failure to appear for a hearing of which the participant had notice;
- 87 (F) the possibility that the court may order a participant, who is not already
88 in custody, into custody;
- 89 (G) a participant’s involvement in a problem-solving court;
- 90 (H) the agreement of the parties;
- 91 (I) in limited circumstances, the court’s determination that the
92 consequential nature of a specific hearing requires all participants to appear
93 in person; or
94 (J) any other relevant factor.

95 (6) **Effect of preference on other participants.** The preference of one participant,
96 and the court’s accommodation of that preference, should not:

- 97 (A) dictate how any other participant appears for a hearing; or
- 98 (B) affect any other participant’s opportunity to request, and the court to
99 accommodate, a different preference for the other participant.

100 (7) **Court compliance and accountability.**

101 ~~(A) Compliance with this rule may be addressed in accordance with the Code of~~
102 ~~Judicial Administration. is part of the effective operation of the court, including~~
103 ~~docket management. As such, implementation and enforcement of this rule is a~~
104 ~~responsibility of each presiding judge pursuant to Rule 3-104.~~

105 ~~(B) A judge that demonstrates persistent non-compliance with this rule may~~
106 ~~be reported to the Judicial Council under Rule 2-211.~~

107 ~~(C) This rule does not prevent a court from:~~

108 ~~(i) issuing a warrant based upon a party's failure to appear as~~
109 ~~directed; or~~

110 ~~(ii) sanctioning a party for willful failure to comply with an order of~~
111 ~~the court.~~

112 Effective May/November 1, 20__

1 Rule XXX. Manner of calendaring and appearance for remote hearings.

2 (a) **Intent.** The intent of this rule is to establish a clear process regarding the manner in
3 which hearings are calendared and a presumption that the court should accommodate
4 the preferences of the participants when determining the manner of participant
5 appearances for court hearings.

6 (b) **Applicability.** This rule applies to civil, criminal, and delinquency matters in juvenile
7 court.

8 (c) **Statement of the Rule.**

9 (1) **Definitions.**

10 (A) "Participant" means a named party, counsel for a named party, a parent
11 of a minor in a delinquency matter, or a victim in a delinquency matter.

12 (B) "Hybrid hearing" means a hearing at which some participants appear
13 in person and others appear remotely.

14 (C) "In-person hearing" means a hearing at which it is intended that all
15 participants will be physically present in the courtroom.

16 (D) "Remote hearing" means a hearing at which it is intended that no
17 participants will be physically present in the courtroom but will instead
18 appear by video conference or other electronic means approved by the
19 Judicial Council.

20 (2) **General rule.** The court may schedule any hearing in-person, remotely, or
21 hybrid as set forth below.

22 (3) **Notice of hearing type.** When calendaring a hearing the court must provide
23 the participants with notice as to whether the court intends the hearing to be an
24 in-person hearing, a remote hearing, or a hybrid hearing. In determining whether
25 a particular hearing is calendared as an in-person, remote, or hybrid hearing, the
26 court must consider:

- 27 (A) the potential length of the hearing;
- 28 (B) the burden of appearing in person compared to appearing remotely,
29 including time and economic impacts;
- 30 (C) the availability of adequate technology for the court and participants to
31 accomplish the purposes of the hearing;
- 32 (D) the complexity of issues to be addressed at the hearing, including the
33 number of participants or exhibits;
- 34 (E) whether testimonial evidence is likely to be presented; and
- 35 (F) any other relevant factor that a participant brings to the court's attention
36 regarding a specific hearing.

37 **(4) Communication of participant preference.**

- 38 (A) A participant may request that the participant or a witness appear in
39 person or remotely by filing a motion, making a verbal request during a
40 hearing, or by email. The request must state the reasons for the request. If
41 made by motion or email, the request must be made at least seven days
42 prior to the scheduled hearing, unless there are exigent circumstances.
- 43 (B) If the request is made by email:
- 44 (i) the participant must contact the court to obtain the email address
45 to be used for the court;
- 46 (ii) the participant must copy the other parties;
- 47 (iii) the participant must clearly indicate on the subject line the
48 request being made; and
- 49 (iv) if there is an objection to the request, the participant must file a
50 copy of the email and any responses via eFiling.

51 (C) Any party may object to any request made under this rule. The objection
52 must state the reason for the objection. The objection must be made within
53 four days of the request. The court may rule on the request based on the
54 request and the objection without further input, or the court may set it for
55 a remote hearing to address the request.

56 (5) **Court accommodation of participant preference.** The court must
57 accommodate a participant's timely communicated preference, unless the court
58 finds good cause on a case-by-case basis to order the participant to appear in a
59 particular manner based on:

60 (A) a constitutional or statutory right that requires a particular manner of
61 appearance or where there is a significant possibility that such a right
62 would be impermissibly diminished or infringed by appearing remotely;

63 (B) any participant's safety, well-being, or specific situational needs;

64 (C) prior technological challenges that unreasonably contributed to delay
65 or a compromised record in the case;

66 (D) prior failure to demonstrate appropriate court decorum, including
67 attempting to participate from a location that is not conducive to
68 accomplishing the purpose of the hearing;

69 (E) prior failure to appear for a hearing of which the participant had notice;

70 (F) the possibility that the court may order a participant, who is not already
71 in custody, into custody;

72 (G) a participant's involvement in a problem-solving court;

73 (H) the agreement of the parties;

74 (I) in limited circumstances, the court's determination that the
75 consequential nature of a specific hearing requires all participants to appear
76 in person; or

77 (J) any other relevant factor.

78 (6) **Effect of preference on other participants.** The preference of one participant,
79 and the court's accommodation of that preference, should not:

80 (A) dictate how any other participant appears for a hearing; or

81 (B) affect any other participant's opportunity to request, and the court to
82 accommodate, a different preference for the other participant.

83 (7) **Court compliance and accountability.** Compliance with this rule may be
84 addressed in accordance with the Code of Judicial Administration.

85 Effective May/November 1, 20__