



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

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting
Date: May 3, 2024
Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of April 5, 2024, meeting minutes.	Tab 1	Matthew Johnson
Discussion & Action: New Rule on In-person, Remote, and Hybrid Hearings. <ul style="list-style-type: none">• <i>The Supreme Court has shared the latest version of their new rule on manner of appearance. The Court has asked for feedback on the following additional issues:</i><ul style="list-style-type: none">○ <i>When a request is made by motion, should a Request to Submit accompany the motion?</i>○ <i>Suggested language regarding succinct, timely motions is requested for paragraph (c)(2).</i>○ <i>Rule 29B and Rule 37B should be repealed, but is there anything in those rules that is missing from the new rule?</i>○ <i>Where does this new rule fit? As Rule 50A or 61?</i>	Tab 2	All
Discussion & Action: Rule 19C . Motion practice for delinquency, traffic, and adult criminal matters. <ul style="list-style-type: none">• <i>There is a proposal to amend the recently revised and published Rule 19C to clarify the relationship between Rule 2, Rule 19C, Rule 12(c)(3) of the Rules of Criminal Procedure, and Utah Code section 76-2-309.</i>	Tab 3	All

Discussion: Old business or new business.		All
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[URJP Committee Site](#)

Meeting Schedule:

June 7, 2024 (in-person)

October 4, 2024

August 2, 2024

November 1, 2024

September 6, 2024

December 6, 2024

TAB 1



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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

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11 Date: April 5, 2024

12
13 Time: 12:00 p.m. – 2:00 p.m.

14
Attendees:

Thomas Luchs
Dawn Hautamaki
Adrianna Davis
Sophia Moore
Judge Paul Dame
Janette White
Michelle Jeffs
James Smith
William Russell
Elizabeth Ferrin
David Fureigh, Emeritus Member

Excused Members:

Matthew Johnson, Chair
Arek Butler
Judge Debra Jensen
Jordan Putnam

Guests:

Staff:

Randi Von Bose, Juvenile Law Clerk
Lisa McQuarrie, Juvenile Law Clerk
Raymundo Gallardo
Kiley Tilby, Recording Secretary

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18 **1. Welcome and approval of the March 1, 2024 Meeting Minutes:** (Matthew Johnson)

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20 Mr. Gallardo stated Mr. Johnson is not available for the committee meeting as he is
21 out of town, but the Supreme Court has appointed William Russell as the vice chair.
22 Mr. Gallardo stated he also just sent out an updated version of the in-person, remote,
23 and hybrid hearings rule.

24

25 Mr. Russell asked the committee for approval of the March 1, 2024, meeting minutes.
26 Judge Dame and Mr. Russell proposed changes, and those changes were made.
27 Janette White moved to approve the minutes. Ms. Jeffs seconded the motion, and it
28 passed unanimously.

29

30 **2. Discussion & Action: Rule 5. Definitions: (All)**

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32 Mr. Russell stated when he looked at the preamble portion- of Rule 5, it outlines that
33 the rules have the same definitions as provided in Utah Code sections 80-1-102 and
34 80-3-102 unless a different definition is provided. When he looked at subpart (b), the
35 definition of adjudication is identical to the language in the statute. Mr. Russell
36 proposed it might be better to remove subpart (b) from Rule 5. Mr. Fureigh agreed,
37 and indicated he had the same thought.

38

39 Judge Dame stated the issue is whether any of the Rules of Juvenile Procedure use a
40 different definition for adjudication. Judge Dame indicated he looked through the
41 rules and there are several places where the term adjudication is used, including Rule
42 16(c), Rule 26(a)(8) and Rule 40(c). Judge Dame indicated that may not be an
43 exhaustive list, but those are the specific rules he looked at. Judge Dame believes the
44 definition as outlined in Utah Code 80-1-102 is appropriate in those rules, so he is
45 agreeable to get rid of the definition of adjudication in subpart (b) in Rule 5.

46

47 Mr. Russell inquired if the committee has a motion to remove subpart (b) in Rule 5.
48 Ms. Davis moved to remove subpart (b) and adjust the subsequent lettering. Ms.
49 Ferrin seconded, and it passed unanimously. Mr. Russell stated it will be sent to the
50 Supreme Court for approval and public comment.

51

52 **3. Discussion & Action: New Rule 13A. Limited-purpose-party intervention: (All)**

53

54 Mr. Gallardo stated he and Mr. Johnson were before the Supreme Court on March 27,
55 2024, and the day before that meeting, the Supreme Court e-mailed their proposed
56 changes to this proposed rule. Mr. Gallardo stated one of biggest differences that he
57 noticed, and that Mr. Johnson raised, was the removal of party. Mr. Gallardo stated
58 the feedback they received from Justice Pohlman was that she didn't want to give the
59 intervenor party status. Mr. Johnson addressed this in the meeting with the Supreme
60 Court and indicated the term "party" was specifically used in the Court of Appeals
61 opinion. Mr. Gallardo indicated Judge Jensen could not be at the meeting, but she
62 provided some small feedback on this rule. Judge Jensen informed Mr. Gallardo that

63 she liked paragraph (a) regarding the scope, but she still prefers the rule this
64 committee drafted over the proposed rule of the Supreme Court.

65
66 Mr. Russell stated he has an opportunity to look at Rule 13A as an outsider as he does
67 not practice in child welfare. However, when he looked at subpart (c) and (d), it
68 appeared to him that the Supreme Court reworded the language, but they have the
69 same substantive content. Judge Dame stated it seems like, where the Supreme Court
70 has made suggested changes, that their preference would be to work off their version.
71 Judge Dame would propose using the first option of subpart (b). Judge Dame would
72 also propose that in subpart (d), the word “why” be changed to “that.” Judge Dame
73 indicates the word “why” presupposes that it is in the best interest, but he believes
74 the Court should make that determination. Judge Dame also proposed adding
75 “limited-purpose intervenor” in subpart (d).

76
77 Mr. Fureigh inquired about the issue the Supreme Court had in using the term
78 “party.” Mr. Gallardo stated Justice Pohlman stated she didn’t do an exhaustive
79 review of the Court of Appeals case, but her proposal is more about the wordiness of
80 using “limited-purpose-party intervention.” Mr. Gallardo indicated his recollection
81 was Justice Pohlman suggested removing “party” for two reasons. The first is that she
82 didn’t think an intervenor had full-party status, and the second reason is she was
83 trying to limit the wordiness of the phrase. Mr. Gallardo stated Justice Pohlman
84 recognized she did not do an exhaustive review of the Court of Appeals opinion, so
85 she indicated if that is the term they used, this committee could also use it.

86
87 Mr. Fureigh stated he agrees that the first subsection (b) as outlined in the Supreme
88 Court draft is the best. Mr. Fureigh likes how it has the statute cited in there, and it is
89 more clear. He also likes the changes Judge Dame has proposed for subsection (d) in
90 adding limited-purpose-intervenor, so it is the same throughout the rule.

91
92 Judge Dame stated his response to Justice Pohlman is that he agrees they are not given
93 a full-party status, which is why it is limited-purpose-party. If there is a reason for
94 verbosity, it overrides the desire to have things not verbose. However, this committee
95 was split on whether it should be limited-purpose-party intervention or limited-
96 purpose intervention. Mr. Russell stated the reason this committee decided to use
97 limited-purpose-party is to be consistent with the Court of Appeals opinion. Judge
98 Dame stated every time intervenor is used in the rule, it needs to be preceded by
99 “limited-purpose-party” so there is no question that under this rule, they are not a full
100 party, and it is for limited purposes only.

101
102 Mr. Fureigh agrees with Judge Dame that indicating it is a limited-purpose-party
103 resolves that concern. Mr. Fureigh stated the reason he supports using the term party
104 is first, because that is what the Court of Appeals used in their decision, and second,
105 it allows the individual to be recognized as a party regarding their request for
106 placement. Mr. Fureigh stated he believes the intervenor should be able to file motions
107 and do things that other parties can do in a case. Mr. Fureigh stated it would be

108 limited, but they should be able to file motions to continue, file requests for discovery,
109 pleadings, etc.

110
111 Judge Dame suggested a potential approach this committee may want to consider, is
112 using the Supreme Court’s proposal, with the addition of adding back in “party” each
113 time it is refers to intervenor and explain to the Supreme Court that this committee
114 discussed it and feels they should use the language the Court of Appeals used which
115 was the impetus to this rule.

116
117 Mr. Johnson joined the committee meeting. Mr. Johnson stated Justice Pohlman
118 acknowledged she hadn’t done a deep dive into the opinion, but her thought process
119 was that by calling it a limited-purpose-party intervenor, it would be confusing to
120 people thinking they are also a party, which she does not believe is the case. Justice
121 Pohlman was pretty adamant that the word “party” gives that individual seeking
122 intervenor status the thought they are a party, which is why she thought it should be
123 removed. Mr. Johnson stated Justice Pohlman also mentioned in Rule 24 of the Rules
124 of Civil Procedure, there is no mention of party, so this would be consistent with the
125 civil rule. Judge Dame stated that explanation makes more sense to him and is a
126 reason he can get behind. Judge Dame agrees with Justice Pohlman on that and
127 indicates he has changed his position and is good with going back to the Supreme
128 Court with their draft and the other changes this committee has discussed.

129
130 Mr. Russell indicated he believes this committee is close to a consensus in that this
131 committee is opting for the first iteration of subpart (b), keep in scope (a), drop “party”
132 from all references to limited-purpose, and make the suggested changes to subpart
133 (d). Ms. McQuarrie stated in subpart (c) regarding record access, there is another place
134 where it says intervenor and she suggested adding “limited-purpose” to that. The
135 change was made.

136
137 Mr. Russell requested a motion from the committee to send the amended rule back to
138 the Supreme Court. Ms. Hautamaki made the motion, and Ms. Jeffs seconded. The
139 motion passed unanimously.

140
141 **4. Discussion: Rule 15. Preliminary inquiry; informal adjustment without petition:**
142 (All)

143
144 Mr. Russell stated this committee previously made some substantive changes to Rule
145 15 to be consistent with the statute, but after review there were some stylistic changes
146 that are being proposed. Mr. Gallardo stated once this committee made the change to
147 subpart (f), he and the law clerks made some stylistic changes and added some
148 plurality and commas that they wanted this committee to consider.

149
150 Mr. Fureigh indicated he agrees with the plurality in line 6 but is not sure about the
151 plurality on line 19 and 23. Mr. Russell agreed with Mr. Fureigh, and stated he likes
152 the singular language on line 19. Judge Dame agreed that he would leave it plural on
153 line 6 but change it back to singular on lines 19 and 23.

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Mr. Gallardo inquired about subpart (c) to change to “which” instead of “that” due to the repetitive use of “that” throughout subpart (c). Mr. Fureigh suggested removing “could” after “which,” but Judge Dame believes it needs to be left in as it makes it broader. Judge Dame indicates he prefers the original version in subpart (c). Mr. Russell agrees as it is consistent with the *Miranda* standard.

Mr. Russell inquired if the committee had a motion to send to the Supreme Court for their review and publication. Ms. White made the motion. Ms. Ferrin seconded the motion, and it passed unanimously.

5. Discussion & Action: Rule 22. Initial appearance and preliminary hearing in case under Utah Code sections 80-6-503 and 80-6-504: (All)

Mr. Russell stated there has been a proposed change to subpart (k) based on the change in statute that is already effective. Judge Dame stated he would suggest removing the reference to the other rules as those rules don’t define or describe reliable hearsay. Judge Dame would propose it be changed to state, “The findings of probable cause may be based, in whole or in part, on reliable hearsay.” Judge Dame would also propose to add, “Issues related to witnesses are governed by Rule 7B(d) of the Utah Rules of Criminal Procedure.” Mr. Russell stated subpart (i) ropes in criminal Rule 7B already, though he understands Judge Dame is trying to make it more specific to witnesses by adding that sentence to subpart (k). Judge Dame agrees that it should just be left out of subpart (k) as it would be redundant.

Mr. Fureigh inquired about the last sentence in subpart (k) and wondered if it would be easier to read if instead of saying, “not properly raised,” it just stated it is not allowed at the preliminary hearing. Judge Dame proposed, “Objections to evidence on the ground that it was acquired by unlawful means may not be raised at the preliminary hearing.” Mr. Russell said the original language was taken verbatim from Rule 7(b) of the criminal rules, but he likes this committee’s proposed language much better.

Subpart (k) will be changed to state, “The finding of probable cause may be based, in whole or in part, on reliable hearsay. Objections to evidence on the ground that it was acquired by unlawful means may not be raised at the preliminary hearing.”

Mr. Russell inquired if a committee member would like to make a motion regarding Rule 22. Ms. White made the motion. Ms. Moore seconded the motion, and it passed unanimously. Mr. Russell stated the proposed language will be presented to the Supreme Court for approval and publication.

6. Discussion & Action: Rule 31. Initiation of truancy proceedings: (All)

Mr. Russell stated regarding Rule 31, he doesn’t know of anyone that thinks there is a place for filing petitions for truancy in juvenile court anymore. Mr. Russell does not

200 know why there is a Rule 31, but it is open for discussion. Ms. Davis stated she
201 doesn't want to have to prosecute it, and Mr. Russell indicated he doesn't want to
202 defend it. Ms. Moore agrees, and stated she thinks it should be removed. Mr. Russell
203 stated the Judicial Council may want to look at Rule 7-303 of the Code of Judicial
204 Administration, which deals with this issue.

205
206 Ms. White doesn't know how long it has been since she has seen a truancy, and there
207 is educational neglect that can be dealt with on the child welfare side and a whole
208 statute that governs the schools. Mr. Russell stated he hasn't seen a petition for
209 truancy in four or five years. Ms. Jeffs stated she has filed a few in her career, but she
210 did not enjoy prosecuting them. Ms. White stated if the law changes and the
211 legislature decides we need to prosecute these types of cases, this committee can
212 create something, but she does not think we need a current rule dealing with this
213 issue.

214
215 Judge Dame agreed the rule should be repealed but indicated there is a situation
216 where it could be filed, though unlikely, because they would have to be habitual
217 truant at least twice in the same school year, and then it would have to go to non-
218 judicial. Judge Dame indicates in theory, it could happen, but the reality is the chance
219 of it happening is so small that he is okay with repealing the rule. Mr. Gallardo pulled
220 up H.B. 362, which indicates that if a non-judicial fails and the probation officer sends
221 it to the prosecuting office, the prosecuting office would dismiss the referral, not the
222 petition. Judge Dame stated that in that case, he is all for getting rid of the rule. Mr.
223 Russell agrees.

224
225 Mr. Russell asks the committee if there is a motion to repeal Rule 31. Ms. Davis made
226 the motion, and Ms. Ferrin seconded. The motion passed unanimously.

227
228 **7. Discussion & Action: In-person, Remote, and Hybrid Hearings: (All)**

229
230 Mr. Russell requested an update on what has transpired in the last two weeks. Mr.
231 Gallardo stated the work group subcommittee drafted a proposed rule, dated March
232 15, 2024. There was another draft dated March 22, 2024, which was amended to
233 require that a participant eFile the e-mail requests. Mr. Gallardo stated the concern is
234 that this will increase the workload of judicial assistants. Mr. Gallardo indicated both
235 the March 15th and March 22nd draft were shared with the Supreme Court. The
236 Supreme Court reviewed them and discussed it amongst themselves, and came up
237 with the April 1, 2024 draft, which they came up with after reviewing all the proposed
238 rules from the various committees. Mr. Gallardo stated the April 1, 2024 draft will be
239 discussed next week with the workgroup.

240
241 Judge Dame inquired if the Supreme Court now wants the workgroup subcommittee
242 to disregard the previous drafts, and work off the April 1, 2024 draft. Mr. Gallardo
243 stated that is his understanding. Mr. Gallardo stated Justice Pohlman is leading the
244 workgroup and made several comments and suggestions. The committee went

245 through several of the comments/suggestions made by Justice Pohlman and
246 provided feedback.

247
248 In regard to participant, Justice Pohlman noted the definition of participant changes
249 depending on the rules. Justice Pohlman inquired if the juvenile rules committee was
250 okay having parents and victims make these requests, or whether it be best to have
251 counsel for the juvenile make that request. Mr. Gallardo stated the version the
252 Supreme Court is presenting now, it will allow the parent of the juvenile or victim to
253 make that request. The committee discussed that issue. Many committee members
254 expressed concern about the parent or victim being able to make the request, and
255 believed it was more appropriate for counsel to make the request on their behalf.

256
257 In regard to (d)(1)(E), Justice Pohlman noted that some drafts of the rule required the
258 court to put the email request in the court record, and others did not require the email
259 request to be filed unless it was denied. Justice Pohlman stated the latter approach
260 puts less burden on the court clerks. Judge Dame stated he doesn't understand why
261 only a denial would be put in the record. Ms. Hautamaki stated it would require the
262 clerks to do additional work by essentially filing it on behalf of the participant. The
263 committee discussed that issue. Judge Dame stated the request could still be granted
264 over an objection, and he doesn't understand why the Court should not be required
265 to make a record, or why is it limited to the court making a denial. Judge Dame
266 indicated if the court makes a ruling on a request under this rule, it should be made
267 part of the record unless it's already part of the record. If it is a stipulated motion, it
268 should also be part of the record. Ms. White can't imagine any e-mail being sent to the
269 court and not being part of the official record. Ms. White indicates if a specific request
270 is being made to a judge, it should be part of the court record. Mr. Russell agreed.
271 Judge Dame feels everything should be made part of the record, just like in every
272 other rule, and he does not know why we are making an exception to this rule.

273
274 Ms. White proposed paragraph (4) be changed to "Ruling" instead of "Denial," and
275 the language be changed to reflect that. Mr. Gallardo stated this committee doesn't
276 necessarily need to make the changes, and they can send him their proposals.

277
278 Ms. Moore stated she appears remotely routinely due to her health, and she always
279 files a motion. She has been appearing in the district court, and all the links for the
280 district court are on the webpage. Ms. Moore inquired if the juvenile court could do
281 that. Judge Dame stated they would have to ensure the hearings that are private or
282 closed would not have the associated link. Mr. Russell agreed that district court
283 proceedings are open, but that is not always the case in juvenile court.

284
285 In paragraph (d), in regard to the request to appear by a different format, a comment
286 was added by Justice Pohlman that the Utah Rules of Criminal Procedure suggested
287 adding "by letter" as an additional method, and Justice Pohlman suggested it be
288 added across all three rules. The committee discussed this suggestion was likely
289 added due to incarcerated parents, specifically those who have refused the
290 appointment of counsel. The committee doesn't have any opposition to adding that.

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In paragraph (f)(2), in regard to the Court’s accommodation of participant’s preference; factors to consider, Justice Pohlman suggested adding or “makes a finding of good cause.” The committee understands that proposed change, and the committee doesn’t have any opposition to that.

In paragraph (f)(2)(B), when referencing the good cause finding, Justice Pohlman pointed out that “witness” was not defined in the definition of participant. Ms. Ferrin is worried this rule would give a witness who has been subpoenaed an opportunity to resist appearing in court. Ms. Ferrin is worried this would be opening a door to concern. Mr. Russell believes this would require the court to hash out any concerns or considerations about the right to confrontation. Judge Dame argued that doesn’t need to be included at all in subpart (B) because if there is a situation that comes up and the right of confrontation needs to be weighed, or a witness is trying to avoid coming to court, it could be addressed under subpart (K) under “any other relevant factor.”

In paragraph (f)(2)(F), Justice Pohlman changed “participant” to “party” as she did not believe a participant would be ordered into custody. Judge Dame stated there could be a participant who was held in contempt and placed into custody for being disruptive in court. Judge Dame stated that may not be what the factor is getting at, and it is getting at some other ordinary circumstance. Mr. Russell believes it is trying to get at specifically having a party there.

Mr. Gallardo invited the committee to send him any additional comments.

8. Old business/new business: (All)

Mr. Gallardo stated the next meeting is an in-person meeting and lunch will be provided. It will be in the Café meeting room on the first floor of the Matheson courthouse. The meeting will take place at the same time, and there will be a hybrid option.

Mr. Gallardo indicated Rule 50 is old business, but it was presented to the Supreme Court last week, and after they looked at the proposed changes, the Supreme Court suggested this committee go a slightly different direction. Mr. Gallardo stated the Supreme court suggested changing it to “hearing” rather than “court.” Justice Pohlman also pointed out an incorrect reference to a statute and made some other smaller stylistic changes. Mr. Gallardo indicated that rule is out for public comment and will be placed on the agenda next month.

No additional old or new business was discussed.

The meeting adjourned at 1:53 PM. The next meeting will be held on May 3, 2024 as a hybrid meeting.

TAB 2

1 **Rule XXX. In-person, remote, and hybrid hearings; requests for accommodation.**

2 (a) **Definitions.**

3 (1) "Participant" means a party, an intervenor, an attorney for a party or an
4 intervenor, a parent of a minor in a delinquency matter, [a juvenile probation officer](#)
5 [in a delinquency matter, a worker for Juvenile Justice and Youth Services in a](#)
6 [delinquency matter,](#) or a victim in a delinquency matter.

7 (2) "In-person" means a participant will be physically present in the courtroom.

8 (3) "In-person hearing" means a hearing where all participants appear in person.

9 (4) "Remote" or "remotely" means a participant will appear by video conference
10 or other electronic means approved by the court.

11 (5) "Remote hearing" means no participants will be physically present in the
12 courtroom and all participants will appear remotely.

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

15 (b) **Setting hearing format; factors to consider.** The court has discretion to set a hearing
16 as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which
17 format to use for a hearing, the court will consider:

18 (1) the preference of the participants, if known;

19 (2) the anticipated hearing length;

20 (3) the number of participants;

21 (4) the burden on a participant of appearing in person compared to appearing
22 remotely, including time and economic impacts;

23 (5) the complexity of issues to be addressed;

24 (6) whether and to what extent documentary or testimonial evidence is likely to be
25 presented;

- 26 (7) the availability of adequate technology to accomplish the hearing’s purpose;
- 27 (8) the availability of language interpretation or accommodations for
- 28 communication with individuals with disabilities;
- 29 (9) the possibility that the court may order a party, who is not already in custody,
- 30 into custody;
- 31 (10) the preference of the incarcerating custodian where a party is incarcerated, if
- 32 the hearing does not implicate significant constitutional rights; and
- 33 (11) any other factor, based on the specific facts and circumstances of the case or
- 34 the court’s calendar, that the court deems relevant.

35 (c) **Request to appear by a different format.** A participant may request that the court
36 allow the participant or a witness to appear at a hearing by a different format than that
37 set by the court. Any request must be made verbally during a hearing, by email, by letter,
38 or by written motion, and the participant must state the reason for the request. If a
39 participant is represented by an attorney, all requests must be made by the attorney.

40 (1) ~~Email or letter request; Timing.~~

41 (A) ~~If making a request by email or letter,~~ the participant must send the
42 request at least seven days before the hearing unless there are exigent
43 circumstances or the hearing was set less than seven days before the hearing
44 date, in which cases the request must be made as soon as reasonably
45 possible;

46 (B) If making a request by email, the participant must send the request to
47 the court’s email address, which may be obtained from the court clerk;

48 (C) The participant must copy all parties on the request;

49 (D) The request must include in the subject line, “REQUEST TO APPEAR
50 IN PERSON, Case_____” or “REQUEST TO APPEAR REMOTELY,
51 Case_____.”

52 (2) **Request by motion; timing.** If making a request by motion, the motion must
53 succinctly state the grounds for the request. The court may rule on the motion
54 without a response. Rule 19A will govern. The motion must be filed sufficiently in
55 advance of the hearing as to allow for an opposition to be timely filed and the
56 motion considered.

Commented [RG1]: Remove "timing" here since it is mentioned in (c)(1)?

57 (d) **Resolution of the request.**

58 (1) **Manner of resolution.** The court may rule on a request under paragraph (c) ~~(d)~~
59 based on the request ~~and any timely objection~~, or the court may set the matter for
60 a remote hearing to address the request. The court may rule on the request in open
61 court, by email, by minute entry, or by written order. If this request is made by
62 email, the court will make a record of the request if the request is denied.

63 (2) **Court's accommodation of participant's preference; factors to consider.** The
64 court will accommodate a timely request unless the court makes, on the record, a
65 finding of good cause to order the participant to appear in the format originally
66 noticed. The court may find good cause to deny a request based on:

67 (A) a constitutional or statutory right that requires a particular manner of
68 appearance or a significant possibility that such a right would be
69 impermissibly diminished or infringed by appearing remotely;

70 (B) a concern for a participant's or witness's safety, well-being, or specific
71 situational needs;

72 (C) a prior technological challenge in the case that unreasonably
73 contributed to delay or a compromised record;

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

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

79 (F) the possibility that the court may order a party, who is not already in
80 custody, into custody;

81 (G) the preference of the incarcerating custodian where a party is
82 incarcerated, if the hearing does not implicate significant constitutional
83 rights;

84 (H) an agreement or [any](#) objection of the parties;

85 (I) the court's determination that the consequential nature of a specific
86 hearing requires all participants to appear in person;

87 (J) the capacity of the court, including but not limited to the required
88 technology equipment, staff, or security, to accommodate the request; or

89 (K) any other relevant factor.

90 (3) **Effect on other participants.** The preference of one participant, and the court's
91 accommodation of that preference, does not:

92 (A) change the format of the hearing for any other participant unless
93 otherwise ordered by the court; or

94 (B) affect any other participant's opportunity to make a timely request to
95 appear by a different format or the court's consideration of that request.

96 Effective May/November 1, 20

1 **Rule XXX. In-person, remote, and hybrid hearings; requests for accommodation.**

2 (a) **Definitions.**

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10 or other electronic means approved by the court.

11 (5) "Remote hearing" means no participants will be physically present in the
12 courtroom and all participants will appear remotely.

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

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19 (2) the anticipated hearing length;

20 (3) the number of participants;

21 (4) the burden on a participant of appearing in person compared to appearing
22 remotely, including time and economic impacts;

23 (5) the complexity of issues to be addressed;

24 (6) whether and to what extent documentary or testimonial evidence is likely to be
25 presented;

- 26 (7) the availability of adequate technology to accomplish the hearing’s purpose;
- 27 (8) the availability of language interpretation or accommodations for
- 28 communication with individuals with disabilities;
- 29 (9) the possibility that the court may order a party, who is not already in custody,
- 30 into custody;
- 31 (10) the preference of the incarcerating custodian where a party is incarcerated, if
- 32 the hearing does not implicate significant constitutional rights; and
- 33 (11) any other factor, based on the specific facts and circumstances of the case or
- 34 the court’s calendar, that the court deems relevant.

35 (c) **Request to appear by a different format.** A participant may request that the court

36 allow the participant or a witness to appear at a hearing by a different format than that

37 set by the court. Any request must be made verbally during a hearing, by email, by letter,

38 or by written motion, and the participant must state the reason for the request. If a

39 participant is represented by an attorney, all requests must be made by the attorney.

40 (1) ~~Email or letter request; Timing.~~

41 (A) ~~If making a request by email or letter,~~ the participant must send the

42 request at least seven days before the hearing unless there are exigent

43 circumstances or the hearing was set less than seven days before the hearing

44 date, in which cases the request must be made as soon as reasonably

45 possible;

46 (B) If making a request by email, the participant must send the request to

47 the court’s email address, which may be obtained from the court clerk;

48 (C) The participant must copy all parties on the request;

49 (D) The request must include in the subject line, “REQUEST TO APPEAR

50 IN PERSON, Case_____” or “REQUEST TO APPEAR REMOTELY,

51 Case_____.”

52 (2) **Request by motion; timing.** If making a request by motion, the motion must
53 succinctly state the grounds for the request and need not be accompanied by a
54 memorandum in support of the motion. The court may rule on the motion without
55 a response. Rule 19A will govern. The motion must be filed sufficiently in advance
56 of the hearing as to allow for an opposition to be timely filed and the motion
57 considered.

Commented [RG1]: Remove "timing" here since it is mentioned in (c)(1)?

58 (d) **Resolution of the request.**

59 (1) **Manner of resolution.** The court may rule on a request under paragraph (c) ~~(d)~~
60 based on the request ~~and any timely objection~~, or the court may set the matter for
61 a remote hearing to address the request. The court may rule on the request in open
62 court, by email, by minute entry, or by written order. If this request is made by
63 email, the court will make a record of the request if the request is denied.

64 (2) **Court's accommodation of participant's preference; factors to consider.** The
65 court will accommodate a timely request unless the court makes, on the record, a
66 finding of good cause to order the participant to appear in the format originally
67 noticed. The court may find good cause to deny a request based on:

68 (A) a constitutional or statutory right that requires a particular manner of
69 appearance or a significant possibility that such a right would be
70 impermissibly diminished or infringed by appearing remotely;

71 (B) a concern for a participant's or witness's safety, well-being, or specific
72 situational needs;

73 (C) a prior technological challenge in the case that unreasonably
74 contributed to delay or a compromised record;

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

78 (E) a prior failure to appear for a hearing of which the participant had

- 79 notice;
- 80 (F) the possibility that the court may order a party, who is not already in
81 custody, into custody;
- 82 (G) the preference of the incarcerating custodian where a party is
83 incarcerated, if the hearing does not implicate significant constitutional
84 rights;
- 85 (H) an agreement or [any](#) objection of the parties;
- 86 (I) the court's determination that the consequential nature of a specific
87 hearing requires all participants to appear in person;
- 88 (J) the capacity of the court, including but not limited to the required
89 technology equipment, staff, or security, to accommodate the request; or
- 90 (K) any other relevant factor.

91 **(3) Effect on other participants.** The preference of one participant, and the court's
92 accommodation of that preference, does not:

- 93 (A) change the format of the hearing for any other participant unless
94 otherwise ordered by the court; or
- 95 (B) affect any other participant's opportunity to make a timely request to
96 appear by a different format or the court's consideration of that request.

97 Effective May/November 1, 20

1 **Rule XXX. In-person, remote, and hybrid hearings; requests for accommodation.**

2 (a) **Definitions.**

3 (1) "Participant" means a party, an intervenor, an attorney for a party or an
4 intervenor, a parent of a minor in a delinquency matter, a juvenile probation officer
5 in a delinquency matter, a worker for Juvenile Justice and Youth Services in a
6 delinquency matter, or a victim in a delinquency matter.

7 (2) "In-person" means a participant will be physically present in the courtroom.

8 (3) "In-person hearing" means a hearing where all participants appear in person.

9 (4) "Remote" or "remotely" means a participant will appear by video conference
10 or other electronic means approved by the court.

11 (5) "Remote hearing" means no participants will be physically present in the
12 courtroom and all participants will appear remotely.

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

15 (b) **Setting hearing format; factors to consider.** The court has discretion to set a hearing
16 as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which
17 format to use for a hearing, the court will consider:

18 (1) the preference of the participants, if known;

19 (2) the anticipated hearing length;

20 (3) the number of participants;

21 (4) the burden on a participant of appearing in person compared to appearing
22 remotely, including time and economic impacts;

23 (5) the complexity of issues to be addressed;

24 (6) whether and to what extent documentary or testimonial evidence is likely to be
25 presented;

- 26 (7) the availability of adequate technology to accomplish the hearing’s purpose;
- 27 (8) the availability of language interpretation or accommodations for
- 28 communication with individuals with disabilities;
- 29 (9) the possibility that the court may order a party, who is not already in custody,
- 30 into custody;
- 31 (10) the preference of the incarcerating custodian where a party is incarcerated, if
- 32 the hearing does not implicate significant constitutional rights; and
- 33 (11) any other factor, based on the specific facts and circumstances of the case or
- 34 the court’s calendar, that the court deems relevant.

35 (c) **Request to appear by a different format.** A participant may request that the court

36 allow the participant or a witness to appear at a hearing by a different format than that

37 set by the court. Any request must be made verbally during a hearing, by email, by letter,

38 or by written motion, and the participant must state the reason for the request. If a

39 participant is represented by an attorney, all requests must be made by the attorney.

40 (1) **Timing.**

41 ~~(A) All requests, except those made verbally during a hearing, must be sent to the~~

42 ~~court. The participant must send the request~~ at least seven days before the hearing unless

43 there are exigent circumstances or the hearing was set less than seven days before the

44 hearing date, in which cases the request must be made as soon as reasonably possible.;

45 ~~(2B) Email and letter requests.~~

46 ~~If making a request by email, the participant must send the request to the~~

47 ~~court’s email address, which may be obtained from the court clerk;~~

48 ~~(CA) An email or letter request must be copied. The participant must copy~~

49 ~~on all parties on the request;~~

50 ~~(BD) An email or letter request. The request~~ must include in the subject line,

51 “REQUEST TO APPEAR IN PERSON, Case_____” or “REQUEST TO

52 APPEAR REMOTELY, Case _____;” and

53 (C) An email request must be sent to the court’s email address, which may
54 be obtained from the court clerk.

55 ~~(32) Request by written motion; timing.~~ If making a request by written motion,
56 the motion must succinctly state the grounds for the request and be accompanied by a
57 request to submit for decision and a proposed order. The motion need not be
58 accompanied by a supporting memorandum. ~~The court may rule on the motion without~~
59 ~~a response.~~

60 _____

61 (d) **Resolution of the request.**

62 (1) **Timing and mManner of resolution.** The court may rule on a request under
63 paragraph (c) ~~based on the request, or the court may set the matter for a remote~~
64 ~~hearing to address the request~~ without waiting for a response. The court may rule
65 on the request in open court, by email, by minute entry, or by written order. If
66 ~~the~~is request is made by email, the court will make a record of the request if the
67 request is denied.

68 (2) **Court’s accommodation of participant’s preference; factors to consider.** The
69 court will accommodate a timely request unless the court makes, on the record, a
70 finding of good cause to order the participant to appear in the format originally
71 noticed. The court may find good cause to deny a request based on:

72 (A) a constitutional or statutory right that requires a particular manner of
73 appearance or a significant possibility that such a right would be
74 impermissibly diminished or infringed by appearing remotely;

75 (B) a concern for a participant’s or witness’s safety, well-being, or specific
76 situational needs;

77 (C) a prior technological challenge in the case that unreasonably

- 78 contributed to delay or a compromised record;
- 79 (D) a prior failure to demonstrate appropriate court decorum, including
- 80 attempting to participate from a location that is not conducive to
- 81 accomplishing the purpose of the hearing;
- 82 (E) a prior failure to appear for a hearing of which the participant had
- 83 notice;
- 84 (F) the possibility that the court may order a party, who is not already in
- 85 custody, into custody;
- 86 (G) the preference of the incarcerating custodian where a party is
- 87 incarcerated, if the hearing does not implicate significant constitutional
- 88 rights;
- 89 (H) an agreement or any objection of the parties;
- 90 (I) the court's determination that the consequential nature of a specific
- 91 hearing requires all participants to appear in person;
- 92 (J) the capacity of the court, including but not limited to the required
- 93 technology equipment, staff, or security, to accommodate the request; or
- 94 (K) any other relevant factor.

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

97 (A) change the format of the hearing for any other participant unless
98 otherwise ordered by the court; or

99 (B) affect any other participant's opportunity to make a timely request to
100 appear by a different format or the court's consideration of that request.

1 **Rule XXX. In-person, remote, and hybrid hearings; requests for accommodation.**

2 (a) **Definitions.**

3 (1) "Participant" means a party, an intervenor, an attorney for a party or an
4 intervenor, a parent of a minor in a delinquency matter, a juvenile probation officer
5 in a delinquency matter, a worker for Juvenile Justice and Youth Services in a
6 delinquency matter, or a victim in a delinquency matter.

7 (2) "In-person" means a participant will be physically present in the courtroom.

8 (3) "In-person hearing" means a hearing where all participants appear in person.

9 (4) "Remote" or "remotely" means a participant will appear by video conference
10 or other electronic means approved by the court.

11 (5) "Remote hearing" means no participants will be physically present in the
12 courtroom and all participants will appear remotely.

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

15 (b) **Setting hearing format; factors to consider.** The court has discretion to set a hearing
16 as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which
17 format to use for a hearing, the court will consider:

18 (1) the preference of the participants, if known;

19 (2) the anticipated hearing length;

20 (3) the number of participants;

21 (4) the burden on a participant of appearing in person compared to appearing
22 remotely, including time and economic impacts;

23 (5) the complexity of issues to be addressed;

24 (6) whether and to what extent documentary or testimonial evidence is likely to be
25 presented;

- 26 (7) the availability of adequate technology to accomplish the hearing’s purpose;
- 27 (8) the availability of language interpretation or accommodations for
- 28 communication with individuals with disabilities;
- 29 (9) the possibility that the court may order a party, who is not already in custody,
- 30 into custody;
- 31 (10) the preference of the incarcerating custodian where a party is incarcerated, if
- 32 the hearing does not implicate significant constitutional rights; and
- 33 (11) any other factor, based on the specific facts and circumstances of the case or
- 34 the court’s calendar, that the court deems relevant.

35 (c) **Request to appear by a different format.** A participant may request that the court

36 allow the participant or a witness to appear at a hearing by a different format than that

37 set by the court. Any request must be made verbally during a hearing, by email, by letter,

38 or by written motion, and the participant must state the reason for the request. If a

39 participant is represented by an attorney, all requests must be made by the attorney.

40 (1) **Timing.** All requests, except those made verbally during a hearing, must be

41 sent to the court at least seven days before the hearing unless there are exigent

42 circumstances or the hearing was set less than seven days before the hearing date,

43 in which cases the request must be made as soon as reasonably possible;

44 (2) **Email and letter requests.**

45 (A) An email or letter request must be copied on all parties;

46 (B) An email or letter request must include in the subject line, “REQUEST

47 TO APPEAR IN PERSON, Case_____” or “REQUEST TO APPEAR

48 REMOTELY, Case_____;” and

49 (C) An email request must be sent to the court’s email address, which may

50 be obtained from the court clerk.

51 (3) **Request by written motion.** If making a request by written motion, the motion

52 must succinctly state the grounds for the request and be accompanied by a request
53 to submit for decision and a proposed order. The motion need not be accompanied
54 by a supporting memorandum.

55 (d) **Resolution of the request.**

56 (1) **Timing and manner of resolution.** The court may rule on a request under
57 paragraph (c) without waiting for a response. The court may rule on the request
58 in open court, by email, by minute entry, or by written order. If the request is made
59 by email, the court will make a record of the request if the request is denied.

60 (2) **Court's accommodation of participant's preference; factors to consider.** The
61 court will accommodate a timely request unless the court makes, on the record, a
62 finding of good cause to order the participant to appear in the format originally
63 noticed. The court may find good cause to deny a request based on:

64 (A) a constitutional or statutory right that requires a particular manner of
65 appearance or a significant possibility that such a right would be
66 impermissibly diminished or infringed by appearing remotely;

67 (B) a concern for a participant's or witness's safety, well-being, or specific
68 situational needs;

69 (C) a prior technological challenge in the case that unreasonably
70 contributed to delay or a compromised record;

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

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

76 (F) the possibility that the court may order a party, who is not already in
77 custody, into custody;

78 (G) the preference of the incarcerating custodian where a party is
79 incarcerated, if the hearing does not implicate significant constitutional
80 rights;

81 (H) an agreement or any objection of the parties;

82 (I) the court's determination that the consequential nature of a specific
83 hearing requires all participants to appear in person;

84 (J) the capacity of the court, including but not limited to the required
85 technology equipment, staff, or security, to accommodate the request; or

86 (K) any other relevant factor.

87 (3) **Effect on other participants.** The preference of one participant, and the court's
88 accommodation of that preference, does not:

89 (A) change the format of the hearing for any other participant unless
90 otherwise ordered by the court; or

91 (B) affect any other participant's opportunity to make a timely request to
92 appear by a different format or the court's consideration of that request.

93 Effective May/November 1, 20

TAB 3

1 **Rule 19C. Motion practice for delinquency, traffic, and adult criminal matters.**

2 (a) This rule applies to motion practice for delinquency, traffic, and adult criminal
3 matters.

4 (b) Any defense, objection, or request, including request for rulings on the admissibility
5 of evidence, which is capable of determination without the trial of the general issue may
6 be raised prior to trial by written motion. A motion must state succinctly and with
7 particularity the grounds upon which it is made and the relief sought. A motion need not
8 be accompanied by a memorandum unless required by the court.

9 (c) The following must be raised at least seven days prior to the trial unless otherwise
10 ordered by the court:

11 (1) defenses and objections based on defects in the petition, indictment, or
12 information;

13 (2) motions to suppress evidence;

14 (3) requests for discovery where allowed;

15 (4) requests for severance of allegations, charges, minors, or defendants;

16 (5) motions to dismiss on the ground of double jeopardy; or

17 (6) motions challenging jurisdiction, unless good cause is shown why the issue
18 could not have been raised at least seven days prior to trial.

19 (d) Motions for a reduction of criminal offense pursuant to Utah Code section 76-3-402(2)
20 may be raised at any time after disposition upon proper service of the motion on the
21 appropriate prosecuting entity.

22 (e) Motions to suppress. A motion to suppress evidence must:

23 (1) describe the evidence sought to be suppressed;

24 (2) set forth the standing of the movant to make the application; and

25 (3) specify sufficient legal and factual grounds for the motion to give the opposing
26 party reasonable notice of the issues and to enable the court to determine what
27 proceedings are appropriate to address them.

28 If an evidentiary hearing is requested, no written response to the motion by the non-
29 moving party is required, unless the court orders otherwise. At the conclusion of the
30 evidentiary hearing, the court may provide a reasonable time for all parties to respond to
31 the issues of fact and law raised in the motion and at the hearing.

32 (f) Motions on the justification of the use of force pursuant to Utah Code section 76-2-309
33 must be filed in accordance with Rule 12(c)(3) of the Rules of Criminal Procedure. Rule
34 12(c)(3) of the Rules of Criminal Procedure is hereby adopted by the Rules of Juvenile
35 Procedure. ~~at least 28 days before trial, unless there is good cause shown as to why the~~
36 ~~issue could not have been raised at least 28 days before trial.~~

37 (g) When the facts in a petition, information, or indictment fail to inform a minor of the
38 nature and cause of the offense alleged so as to enable the minor to prepare a defense, the
39 minor may file a written motion for a bill of particulars. The motion must be filed at
40 arraignment or within 14 days thereafter, or at such later time as the court may permit.

41 (h) A motion made before trial must be determined before trial unless the court for good
42 cause orders that the ruling be deferred for later determination. Where factual issues are
43 involved in determining a motion, the court will state its findings on the record.

44 (i) Failure of the minor or defendant to timely raise defenses or objections or to make
45 requests which must be made prior to trial or at the time set by the court will constitute
46 waiver thereof, but the court for cause shown may grant relief from such waiver.

47 (j) A verbatim record will be made of all proceedings at the hearing on motions, including
48 such findings of fact and conclusions of law as are made orally.

49 (k) If the court grants a motion based on a defect in the institution of the prosecution or
50 in the petition or information, it may order that the minor or defendant be held in custody
51 for a reasonable and specified time pending the filing of a new petition or information.

52 Nothing in this rule will be deemed to affect provisions of law relating to a statute of
53 limitations.

1 **Rule 19C. Motion practice for delinquency, traffic, and adult criminal matters.**

2 (a) This rule applies to motion practice for delinquency, traffic, and adult criminal
3 matters.

4 (b) Any defense, objection, or request, including request for rulings on the admissibility
5 of evidence, which is capable of determination without the trial of the general issue may
6 be raised prior to trial by written motion. A motion must state succinctly and with
7 particularity the grounds upon which it is made and the relief sought. A motion need not
8 be accompanied by a memorandum unless required by the court.

9 (c) The following must be raised at least seven days prior to the trial unless otherwise
10 ordered by the court:

11 (1) defenses and objections based on defects in the petition, indictment, or
12 information;

13 (2) motions to suppress evidence;

14 (3) requests for discovery where allowed;

15 (4) requests for severance of allegations, charges, minors, or defendants;

16 (5) motions to dismiss on the ground of double jeopardy; or

17 (6) motions challenging jurisdiction, unless good cause is shown why the issue
18 could not have been raised at least seven days prior to trial.

19 (d) Motions for a reduction of criminal offense pursuant to Utah Code section 76-3-402(2)
20 may be raised at any time after disposition upon proper service of the motion on the
21 appropriate prosecuting entity.

22 (e) Motions to suppress. A motion to suppress evidence must:

23 (1) describe the evidence sought to be suppressed;

24 (2) set forth the standing of the movant to make the application; and

25 (3) specify sufficient legal and factual grounds for the motion to give the opposing
26 party reasonable notice of the issues and to enable the court to determine what
27 proceedings are appropriate to address them.

28 If an evidentiary hearing is requested, no written response to the motion by the non-
29 moving party is required, unless the court orders otherwise. At the conclusion of the
30 evidentiary hearing, the court may provide a reasonable time for all parties to respond to
31 the issues of fact and law raised in the motion and at the hearing.

32 (f) Motions on the justification of the use of force pursuant to Utah Code section 76-2-309
33 must be filed in accordance with Rule 12(c)(3) of the Rules of Criminal Procedure. Rule
34 12(c)(3) of the Rules of Criminal Procedure is hereby adopted by the Rules of Juvenile
35 Procedure.

36 (g) When the facts in a petition, information, or indictment fail to inform a minor of the
37 nature and cause of the offense alleged so as to enable the minor to prepare a defense, the
38 minor may file a written motion for a bill of particulars. The motion must be filed at
39 arraignment or within 14 days thereafter, or at such later time as the court may permit.

40 (h) A motion made before trial must be determined before trial unless the court for good
41 cause orders that the ruling be deferred for later determination. Where factual issues are
42 involved in determining a motion, the court will state its findings on the record.

43 (i) Failure of the minor or defendant to timely raise defenses or objections or to make
44 requests which must be made prior to trial or at the time set by the court will constitute
45 waiver thereof, but the court for cause shown may grant relief from such waiver.

46 (j) A verbatim record will be made of all proceedings at the hearing on motions, including
47 such findings of fact and conclusions of law as are made orally.

48 (k) If the court grants a motion based on a defect in the institution of the prosecution or
49 in the petition or information, it may order that the minor or defendant be held in custody
50 for a reasonable and specified time pending the filing of a new petition or information.

51 Nothing in this rule will be deemed to affect provisions of law relating to a statute of
52 limitations.