

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

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting
Date: March 7, 2025
Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of the February 7, 2025 meeting minutes.	Tab 1	Matt Johnson
Discussion & Action: Transfers of Child Protective Orders to district court. <ul style="list-style-type: none">• Pursuant to Utah Code section 78A-6-104(5), child protective orders may be transferred to the district court. When this occurs, the Rules of Civil procedure apply, and the procedures regarding interviews or recordings with children found in the Rules of Juvenile Procedure are lost.• The Committee has been invited to partner with the Advisory Committee on the Rules of Civil Procedure and form a workgroup to address this issue. Interested members are encouraged to volunteer.	Tab 2	Stacy Haacke
Discussion & Action: Rule 34 . Pre-trial hearing in non-delinquency cases. <ul style="list-style-type: none">• In response to In re J.M., 2024 UT App 147, the Committee has proposed several amendments. Most notably, a Rule 34(e) response is now termed an "uncontested answer," and a new paragraph provides a process for seeking relief from an admission or uncontested answer.	Tab 3	All

<ul style="list-style-type: none"> Members of the Indigent Defense Commission have been invited to provide feedback regarding the proposed amendments. 		
<p>Discussion & Action: Rule 48. Post judgment motions.</p> <ul style="list-style-type: none"> The proposed change to Rule 48 adds Rule 60(b) of the Utah Rules of Civil Procedure to paragraph (c). This change is linked to proposed amendments to Rule 34. 	Tab 4	All
<p>Discussion & Action: Rule 16. Transfer of delinquency case.</p> <ul style="list-style-type: none"> Comment period closes on February 1, 2025. A comment was received related to detention and home detention hearings: "If the case is transferred for trial to the trial judge, Does the home judge review the detention/home detention status?" 	Tab 5	All
<p>Discussion & Action: Rule 16A. Transfer of a non-delinquency proceeding.</p> <ul style="list-style-type: none"> Proposed changes to paragraph (e) were recently presented to the Supreme Court. The Court offered a restructuring of the rule that follows a more sequential process. 	Tab 6	All
<p>Discussion: Ineffective assistance of counsel claims.</p> <ul style="list-style-type: none"> The Court of Appeals asks for this Committee's feedback on a proposal to adopt a rule that addresses ineffective assistance of counsel claims in juvenile court appeals. The proposed rule would be similar to Rule 23B of the Utah Rules of Appellate Procedure. 		Judge Jensen
<p>Discussion & Action: Rule 44. Findings and conclusions.</p> <ul style="list-style-type: none"> Fourth District Juvenile Judge F. Richards Smith proposes amending Rule 44 to establish that once a delinquency allegation is found <i>Not True</i>, it is unnecessary to dismiss the petition. 	Tab 7	All
<p>Discussion: Old business or new business.</p>		All

[URJP Committee Site](#)

Meeting Schedule:

April 4, 2025

August 1, 2025

November 7, 2025

May 2, 2025

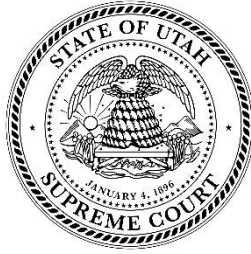
September 5, 2025

December 5, 2025

June 6, 2025

October 3, 2025

TAB 1



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

Draft Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting
Date: February 7, 2025
Time: 12:00 p.m. – 2:00 p.m.

<u>Attendees:</u> Matthew Johnson, Chair Adrianna Davis Arek Butler David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin James Smith Janette White Judge David Johnson Judge Debra Jensen Michelle Jeffs Sophia Moore Thomas Luchs William Russell, Vice Chair	<u>Excused Members:</u> Jordan Putnam
	<u>Guests:</u> Blake Murdoch
<u>Staff:</u> Joe Mitchell, Juvenile Court Law Clerk Lisa McQuarrie, Juvenile Court Law Clerk	

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1. Welcome and approval of the January 3, 2025 Meeting Minutes. (Matthew Johnson)

Committee Chair Matthew Johnson welcomed everyone to the meeting. Chair Johnson then asked the Committee for approval of the January 3, 2025 meeting minutes. Dawn Hautamaki moved to approve the minutes as presented. Vice-chair Bill Russell seconded the motion, and it passed unanimously.

2. Discussion: *In re J.M.*, 2024 UT App 147, Rule 34, and Rule 48. (All)

Judge Johnson and Judge Jensen met with the Board of Juvenile Court Judges on January 10, 2025. Judge Johnson shared that the Board’s biggest concern with the proposed changes to Rule 34 was the use of the phrase “no-contest.” The Board urges this Committee to avoid the use of “no-contest” to eliminate any confusion and crossover use of the phrase between criminal and delinquency proceedings and civil and child welfare proceedings.

Judge Jensen presented a draft of the changes as proposed by the Board. Judge Jensen shared that “uncontested” and “undisputed,” among other words, were suggested as replacements to “no-contest,” but she is persuaded that “uncontested” seems to be a better fit. The proposed phrase “no-contest answer” in paragraphs (e) and (f) of Rule 34 was replaced with the newly proposed language of “uncontested answer” in both paragraphs. Judge Jensen presented an additional change that was suggested by the Board. In proposed paragraph (f), the Board added, “Any relief under this rule will not toll any statutory timeframes.” The intent behind this added language is to inform parties that while relief can be sought, the child welfare case will progress while relief is sought. This change avoids amending the timeframes allowed in Rule 60 of the Civil Rules of Procedure.

Thomas Luchs suggested clarifying the last change that was suggested by the Board. Mr. Luchs noted that a motion pursuant to Civil Rule 59 or Rule 60 does toll the time for appeal, but that the Board is likely referring to the child welfare statutory timeframes. Mr. Luchs suggested making this clear in Rule 34.

David Fureigh pointed out that Rule 48 of the Utah Rules of Juvenile Procedure restricts the timeframe—“14 days after entry of the judgment”—for a motion filed pursuant to Civil Rule 59. Rule 48, however, does not include Civil Rule 60. Mr. Fureigh proposes adding Civil Rule 60 to Rule 48 for consistency and because both Civil Rules 59 and 60 are referenced in proposed paragraph (f) of Rule 34. Mr. Fureigh believes the timeframe was shortened by Rule 48 precisely because of the appeal timeframe specific to juvenile court proceedings.

56 Vice-chair Bill Russell expressed his appreciation for the proposed term of
57 “uncontested.” The use of “no-contest” mixes in case law that does not apply to child
58 welfare proceedings. Mr. Russell supports this change and the added sentence in
59 proposed paragraph (f) regarding the non-tolling of the statutory timeframes.

60
61 Mr. Luchs shared his experienced working with parental defense attorneys who are
62 not familiar with juvenile court cases and his own experience as a past parental
63 defense attorney. He often advised clients that the findings can only be used against
64 the client in the current juvenile court proceeding or in a termination of parental rights
65 case, if filed, but the findings cannot be used in other proceedings. Therefore, Mr.
66 Luchs proposes further amending Rule 34 to make this clear. He proposes the
67 following change to the last sentence in paragraph (e), “Allegations not specifically
68 denied by a respondent will be deemed true *only for purposes of the non-delinquency*
69 *proceeding*” (emphasis added to show the proposed language). However, Mr. Luchs is
70 still working on finding the right, clear language due to the possibility that the
71 findings may be used in a termination of parental rights proceeding or a
72 substantiation proceeding. Nonetheless, Mr. Luchs believes it’s important to highlight
73 that the findings are not “deemed true” for everything.

74
75 Elizabeth Ferrin voiced her support for the amendments discussed today. Clarity is
76 helpful, especially for parents who may have an accompanying criminal case. Ms.
77 Ferrin added that consistency from courtroom to courtroom will also help. Training
78 for judges that emphasizes understandable explanations to parents about the
79 proceeding and steers away from the use of “no-contest” may be needed.

80
81 Judge Johnson, in response to Mr. Luchs’s proposal, noted that the findings in the
82 child welfare proceeding, including a Rule 34(e) response, may also be used in a child
83 protective order proceeding in juvenile court or district court. This is something to
84 consider.

85
86 Mr. Fureigh agreed that the findings may also be used in protective order
87 proceedings. He adds that the findings may also be used in divorce proceedings. Mr.
88 Fureigh believes that the underlying reason a parent is allowed to proceed with an
89 “uncontested answer” is so that parents are not forced to admitting allegations, which
90 may be used against the parent in a criminal case. Mr. Fureigh also supports the
91 proposed language in paragraph (f) regarding statutory timeframes not being tolled.
92 The underlying reason for shorter timeframes is the best interest of the children.
93 Children should not be left wondering what’s going on and whether or not they’ll be
94 reunited with their parents. This focus should guide the timeframes. Therefore, Mr.
95 Fureigh again suggests adding Civil Rule 60 to paragraph (c) of Rule 48.

96
97 Mr. Luchs asked a clarifying question as to the use of juvenile court findings in district
98 court divorce proceedings. Judge Johnson shared that conversations between juvenile

99 court judges and district court commissioners and judges regarding divorce and
100 custody proceedings occur frequently. Mr. Luchs feels strongly that the protection of
101 Rule 34(e) needs to be clear as this is the issue that the Court of Appeals was grappling
102 with in *In re J.M., 2024 UT App 147*.

103
104 Arek Butler voiced concern with making the protection of Rule 34(e) more clear; that
105 is, the language “deemed true *only for purposes of the non-delinquency proceeding*.” Mr.
106 Butler has not seen and does not believe that a prosecutor would be able to use the
107 findings from a civil court that resulted from an uncontested answer in a criminal
108 matter. A criminal proceeding’s standard of proof is totally different. The Committee
109 should not attempt to articulate what “deemed true” means. Mr. Butler does support
110 adding Civil Rule 60 to paragraph (c) of Rule 48 that already shortens the timeframe
111 for the filing of a motion pursuant to Civil Rule 59.

112
113 Judge Jensen explained that when the juvenile court finds something true pursuant to
114 Rule 34 it is under the clear and convincing standard. The juvenile court finding
115 cannot be used in a criminal proceeding, because in that proceeding, the standard
116 used is beyond a reasonable doubt. Juvenile court findings may be used by a district
117 court in other civil proceedings where the same standard of clear and convincing is
118 being used, e.g., divorce and custody proceedings. The district court would have to
119 certify the juvenile court findings. Judge Jensen is also hesitant with clarifying the
120 phrase “deemed true” because, for example, if there is a finding of abuse or neglect in
121 the juvenile court, that finding may be helpful in a district court custody proceeding.
122 Sophia Moore and Chair Johnson also agreed with this position.

123
124 Ms. Moore adds that she spoke to committee member Jordan Putnam, who was not
125 able to attend this meeting, and Mr. Putnam is also in support of this latest version of
126 Rule 34, dated February 5, 2025.

127
128 Dawn Hautamaki raised a separate concern found in the proposed language of
129 paragraph (d). Ms. Hautamaki shared that the judge she works with expressed
130 concern with the proposed language that states, “The court will inform the
131 respondent of the potential dispositional orders that may be entered...” A judge may
132 not know all of the potential dispositions at the time of the pretrial. A respondent may
133 challenge a dispositional order that the court did not inform the respondent of at the
134 time of the pretrial. Mr. Fureigh reasoned that the term “potential” allows for judicial
135 discretion as to which orders a judge feels a parent needs to understand. Mr. Butler
136 agreed that the use of “potential” expands the range of possible dispositional orders.

137
138 Janette White suggested incorporating the language found in the judge’s benchbook
139 regarding the colloquy in paragraph (d). On a rule drafting note, Chair Johnson
140 suggested changing “orders” to “order.” The Supreme Court’s Style Guide
141 recommends drafting in the singular. Judge Johnson expressed concern with

142 incorporating the language of the benchbook into the rule. The benchbook is unique
143 to judges and each case is also unique. The benchbook is also amended every year.
144 Judge Johnson supports keeping the term “potential.” Chair Johnson also supports
145 the vague nature of the term “potential.” It also captures the discretion judges have
146 to make orders that are in the best interest of the children. Judge Johnson reminded
147 the group that the “best interest” language is in statute, and it promotes a creative
148 approach to each case. If, however, a change is needed, Judge Johnson suggested
149 changing “potential dispositional orders” to “reasonable orders that the court finds
150 are in the best interest of the children.” This would mirror the language in statute.

151
152 If the rule states “potential dispositional order” and at the time of disposition the court
153 orders a dispositional order that was not discussed, Mr. Fureigh acknowledged the
154 possibility of respondents filing motions pursuant to Civil Rule 60. Mr. Fureigh now
155 thinks it may be best to remove the “potential dispositional order” language from the
156 rule. Further into paragraph (d), the rule states that the court will find that the
157 respondent understands the “consequences of their answer.” Judges do a good job
158 outlining the basic consequences around custody, visitation, parental rights, and
159 services.

160
161 Mr. Russell noted the practical impossibility of the court informing respondents of
162 every single potential dispositional order. He suggests the language, “The court will
163 inform the respondent that a dispositional order will be entered...” This is simple and
164 general. This follows a natural sequence from adjudication to disposition. Chair
165 Johnson expressed support for this succinct language. Mr. Fureigh also supports this
166 language as it leaves room for a judge to explain the possible orders regarding
167 custody, visitation, parental rights, and services. Judge Johnson commented that
168 training judges to avoid the use of “no-contest” and to ensure their colloquies are
169 robust may be needed. Judge Jensen made similar remarks in support of the change.

170
171 Mr. Russell suggested further amending the proposed language in paragraph (d)
172 regarding the use of “answer or response.” Now that the Committee has agreed on
173 the term “uncontested answer,” Mr. Russell suggests removing “response.” Members
174 agreed with this change.

175
176 The Committee then made several stylistic, clarifying, and structural changes in
177 paragraph (d).

178
179 Lisa McQuarrie suggested amending the last sentence in newly numbered paragraph
180 (g). Currently, the sentence is unclear and places the responsibility of monitoring
181 timeframes on the court. Ms. McQuarrie suggested replacing the last sentence,
182 “Within the time limits set forth in Utah R. Civ. P. 60(b), upon the written motion of
183 any party in default and a showing of good cause, the court may set aside an entry of
184 default” with “The court may set aside an entry of default if the defaulting party files

185 a written motion upon just terms within the time limits set forth in Rule 60 of the Utah
186 Rules of Civil Procedure.” The Committee supported this change.

187
188 The Committee then returned to the issue of timeframes. Mr. Butler supports
189 amending Rule 48, which includes a reduced timeframe, to include Civil Rule 60.
190 Furthermore, Mr. Butler believes that Rule 48 should also be referenced in Rule 34 to
191 alert practitioners that Civil Rules 59 and 60 are limited by Rule 48. Ms. White
192 reminded the Committee that prior discussion seemed to have led to a view against
193 altering the timeframes allowed by Civil Rule 60. Judge Johnson recalled the same,
194 and added that the Board of Juvenile Court Judges also voiced concern over creating
195 new timeframes as that can lead to litigation and conflict with the Rules of Civil
196 Procedure. Mr. Butler argued that Rule 48 already shortens the timeframe for motions
197 filed pursuant to Civil Rule 59, so it makes sense to add Civil Rule 60.

198
199 Judge Johnson noted the proportional relationship between Civil Rule 59, which has
200 a 28-day timeframe, and Rule 48, which has a 14-day timeframe. The reduction in time
201 that Rule 48 causes to Civil Rule 59 can be quantified at 50%. On the other hand,
202 reducing the 90 days allowed by Civil Rule 60 to the 14 days found in Rule 48 is about
203 an 85% reduction. This may be problematic for defense attorneys, especially if they
204 have clients that are difficult to get a hold of. Ms. Moore understands the attempt to
205 be consistent but shares the concern that 14 days is not a long time to file a motion
206 pursuant to Civil Rule 60.

207
208 Mr. Butler suggested referencing Rule 48 in the new paragraph (f), because (f) now
209 references Civil Rule 59. If a practitioner wishes to file a motion pursuant to Civil Rule
210 59, they should know that the timeframe found in Rule 48 applies. Reference to Rule
211 48 was added to paragraph (f).

212
213 The Committee agreed that the proposed changes to Rule 34 need further discussion.
214 Ms. Moore agreed to take the proposal to the Indigent Defense Commission for
215 feedback. Mr. Fureigh then suggested striking a balance in regards to the timeframes
216 for filing a motion under Civil Rule 60. It seems the 14 days allowed by Rule 48 is too
217 short of a timeframe, so perhaps, 28 days may be more appropriate. Mr. Butler agreed
218 and suggested 45 days. It was suggested that a new subparagraph be added to Rule
219 48 regarding a timeframe for motions filed under Civil Rule 60. Raymundo Gallardo
220 will send redline and clean versions of Rule 34 and 48 to Ms. Moore so that she can
221 have a discussion with the Indigent Defense Commission. Judge Johnson reminded
222 the group that Civil Rule 60 also provides for relief when newly discovered evidence
223 is presented to the court. New evidence is another reason the Committee may want
224 to consider keeping the current timeframes.

225
226 Joe Mitchell brought to the attention of the Committee that motions under Civil Rule
227 60(a) do not carry a timeframe but it seems they can be filed at any time. Several

228 members suggested clarifying the amendments made to Rule 48 to specify that the
229 motions mentioned in Rule 48 are motions filed under Civil Rule 60(b). Judge Johnson
230 added that only motions filed under Civil Rule 60(b)(1), (b)(2), and (b)(3) are restricted
231 to a 90-day filing period.

232
233 Chair Johnson asked that Rule 34 and Rule 48 be placed back on the March agenda.
234 Ms. Moore will share the rule amendments with the Indigent Defense Commission
235 and may invite them to our next meeting to share their feedback. Chair Johnson
236 welcomes the participation of defense counsel.

237
238 **3. Rule 16. Transfer of delinquency case. (All)**

239
240 Rule 16 will be discussed in March 2025.

241
242 **4. Rule 16A. Transfer of a non-delinquency proceeding. (All)**

243
244 Rule 16A will be discussed in March 2025.

245
246 **5. Transfers of Child Protective Orders to District Court. (All)**

247
248 Mr. Gallardo shared that the Committee received a request to join the Supreme
249 Court’s Advisory Committee on the Utah Rules of Civil Procedure and together
250 address which juvenile rules could apply in district court proceedings after a child
251 protective order is transferred from the juvenile court to the district court. Currently,
252 the request centers around Rules 37, 37A, and Civil Rule 81. Chair Johnson indicated
253 that a child’s Children Justice Center (CJC) interview may only be released to parties
254 by court order. Judge Johnson commented that Rule 37A does not apply to child
255 protective order cases. Mr. Fureigh affirmed this and clarified that parties cannot
256 simply introduce the CJC interview during a proceeding. A child must still be
257 available for cross-examination. Mr. Fureigh asked for more information regarding
258 this request. Mr. Gallardo will seek additional information to bring back to the
259 Committee.

260
261 **6. Ineffective Assistance of Counsel Claims and Rule 23B of the Utah Rules of**
262 **Appellate Procedure. (All)**

263
264 Appellate Rule 23B will be discussed in March 2025.

265
266 **7. Old business/new business: (All)**

267
268 Chair Johnson noted the need for a recording secretary to take minutes. He asked for
269 interested members or interested attorneys within members’ offices or agencies

270 willing to help take minutes. Members are invited to send names to Mr. Johnson and
271 Mr. Russell for consideration.

272

273 The meeting adjourned at 2:06 p.m. The next meeting will be held on March 7, 2025
274 via Webex.

TAB 2

Child protective orders URCP and URJP Procedural rules

A request has come to the URCP and URJP Committees because of some questions regarding the procedure for child protective orders when they are transferred from juvenile court to district court under UC [78A-6-104\(5\)](#). When this happens the URCP kicks in and some of the procedures found in the URJP for interviews or recordings with children are lost. The request is to coordinate between the two sets of rules for some URJP rules to still apply to the child protective order proceedings in district court. Instead of fixing this in statute, we are hoping to coordinate between the court rules.

So far the request centers around URJP rules [37](#) and [37A](#), and the URJP Committee may have more thoughts. And then a good spot in URCP might be Rule [81](#) - to add which URJP rules apply to child protective order proceedings in district court.

The initial thought is to get a few folks from each committee to work together on this one so we are looking for a subcommittee that will work with the URJP subcommittee.

TAB 3

1 **Rule 34. Pre-trial hearing in non-delinquency cases.**

2 (a) Petitions in non-delinquency cases ~~shall~~will be scheduled for an initial pre-trial
3 hearing.

4 (b) The pre-trial hearing ~~shall~~will be scheduled on the nearest court calendar date
5 available in all cases where the subject minor is in temporary shelter care custody in
6 accordance with Utah Code section 80-3-401.

7 (c) In the pre-trial hearing, the court ~~shall~~will advise the parent, guardian, or custodian
8 of the minor's rights and of the authority of the court in such cases. In the hearing or in
9 any continuance of the hearing, the parent, guardian, or custodian ~~shall~~must answer the
10 petition in open court.

11 (d) Before answering, the court will inform the respondent of their rights, including but
12 not limited to their right to a trial on the petition and their right to counsel at the trial.
13 The court will inform the respondent that a dispositional order will be entered regarding
14 the respondent and the child(ren) as a result of the respondent's answer. The court will
15 determine and find whether the answer is knowing and voluntary and that the
16 respondent understands the consequences of the answer, including their rights on
17 appeal. ~~the respondent may move to dismiss the petition as insufficient to state a claim~~
18 ~~upon which relief can be granted. The court shall hear all parties and rule on said motion~~
19 ~~before requiring a party to answer.~~

20 (e) A respondent may answer by admitting or denying the specific allegations of the
21 petition, or by proceeding with an uncontested answer by declining to admit or deny the
22 allegations. Allegations not specifically denied by a respondent ~~shall~~will be deemed true.

23 (f) An answer to a child welfare petition is civil in nature. Relief from an admission or
24 uncontested answer entered pursuant to Rule 34(e) is governed by civil remedies,
25 including Rule 59 and Rule 60 of the Utah Rules of Civil Procedure, applicable appellate
26 procedure, and Rule 48. Any relief under this rule will not toll any statutory timeframes.

27 (g) Except in cases where the petitioner is seeking a termination of parental rights, the
28 court may enter the default of any respondent who fails to file an answer, or who fails to
29 appear either in person or by counsel after having been served with a summons or notice
30 pursuant to Rule 18. Allegations relating to any party in default ~~shall~~will be deemed
31 admitted unless the court, on its own motion, or the motion of any party not in default,
32 ~~shall~~will require evidence in support of the petition. ~~Within the time limits set forth in~~
33 ~~Utah R. Civ. P. 60(b), upon the written motion of any party in default and a showing of~~
34 ~~good cause, the court may set aside an entry of default.~~ The court may set aside an entry
35 of default if the defaulting party files a written motion upon just terms within the time
36 limits set forth in Rule 60 of the Utah Rules of Civil Procedure.

1 **Rule 34. Pre-trial hearing in non-delinquency cases.**

2 (a) Petitions in non-delinquency cases will be scheduled for an initial pre-trial hearing.

3 (b) The pre-trial hearing will be scheduled on the nearest court calendar date available in
4 all cases where the subject minor is in temporary shelter care custody in accordance with
5 Utah Code section 80-3-401.

6 (c) In the pre-trial hearing, the court will advise the parent, guardian, or custodian of the
7 minor's rights and of the authority of the court in such cases. In the hearing or in any
8 continuance of the hearing, the parent, guardian, or custodian must answer the petition
9 in open court.

10 (d) Before answering, the court will inform the respondent of their rights, including but
11 not limited to their right to a trial on the petition and their right to counsel at the trial.
12 The court will inform the respondent that a dispositional order will be entered regarding
13 the respondent and the child(ren) as a result of the respondent's answer. The court will
14 determine and find whether the answer is knowing and voluntary and that the
15 respondent understands the consequences of the answer, including their rights on
16 appeal.

17 (e) A respondent may answer by admitting or denying the specific allegations of the
18 petition, or by proceeding with an uncontested answer by declining to admit or deny the
19 allegations. Allegations not specifically denied by a respondent will be deemed true.

20 (f) An answer to a child welfare petition is civil in nature. Relief from an admission or
21 uncontested answer entered pursuant to Rule 34(e) is governed by civil remedies,
22 including Rule 59 and Rule 60 of the Utah Rules of Civil Procedure, applicable appellate
23 procedure, and Rule 48. Any relief under this rule will not toll any statutory timeframes.

24 (g) Except in cases where the petitioner is seeking a termination of parental rights, the
25 court may enter the default of any respondent who fails to file an answer, or who fails to
26 appear either in person or by counsel after having been served with a summons or notice
27 pursuant to Rule 18. Allegations relating to any party in default will be deemed admitted

28 unless the court, on its own motion, or the motion of any party not in default, will require
29 evidence in support of the petition. The court may set aside an entry of default if the
30 defaulting party files a written motion upon just terms within the time limits set forth in
31 Rule 60 of the Utah Rules of Civil Procedure.

TAB 4

1 **Rule 48. Post judgment motions.**

2 (a) Except as provided in paragraph (c), new hearings ~~shall~~will be available in accordance
3 with Rules 52, 59, and 60(b) of the Utah Rules of Civil Procedure. ~~Civ. P. 52, 59 and 60.~~

4 (b) If a new hearing is granted, the same burden of proof ~~shall~~will apply.

5 (c) Motions filed under Rules 52, 59, or 60(b) of the Utah Rules of Civil Procedure. ~~Civ. P.~~
6 ~~52 and/or Utah R. Civ. P. 59~~ must be filed no later than 14 days after entry of the
7 judgment.

8

1 **Rule 48. Post judgment motions.**

2 (a) Except as provided in paragraph (c), new hearings will be available in accordance with
3 Rules 52, 59, and 60(b) of the Utah Rules of Civil Procedure.

4 (b) If a new hearing is granted, the same burden of proof will apply.

5 (c) Motions filed under Rules 52, 59, or 60(b) of the Utah Rules of Civil Procedure must
6 be filed no later than 14 days after entry of the judgment.

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TAB 5

1 **Rule 16. Transfer of delinquency case and venue.**

2 (a) **Transfer of delinquency case for preliminary inquiry.**

3 (1) When a minor resides in a county ~~within the state~~ other than the county in
4 which the alleged delinquency occurred, ~~and it appears that~~ the minor initially
5 qualifies for a nonjudicial adjustment pursuant to statute, the ~~intake~~ probation
6 officer of the county of occurrence ~~must~~shall, unless otherwise directed by court
7 ~~order,~~ transfer the referral to the minor's county of residence for a preliminary
8 inquiry to be conducted in accordance with Rule 15.

9 (2) If the minor or the minor's parent, guardian, or custodian cannot be located or
10 fails to appear after notice of the preliminary inquiry or the minor declines an offer
11 for a nonjudicial adjustment ~~any of the following circumstances are found to exist~~
12 ~~at the time of preliminary inquiry,~~ the referral ~~must~~shall be transferred back to the
13 county of occurrence for a determination as to whether to file ~~ing of~~ a petition, ~~and~~
14 ~~further proceedings:~~

15 ~~(A) a minor, the child or the child's parent, guardian or custodian cannot be~~
16 ~~located or failed to appear after notice for the preliminary inquiry;~~

17 ~~(B) a minor, the child or the child's parent, guardian or custodian declines an offer~~
18 ~~for a nonjudicial adjustment;~~

19 ~~(C) a minor or the minor's custodian cannot be located or fails to appear after~~
20 ~~notice for the preliminary inquiry or the minor declines an offer for a nonjudicial~~
21 ~~adjustment;~~

22 ~~(D) there are circumstances in the case that require adjudication in the county of~~
23 ~~occurrence in the interest of justice; or~~

24 ~~(E) there are multiple minors involved who live in different counties.~~

25 (b) Arrest and pretrial proceedings. ~~If the referral is not returned to the county of~~
26 ~~occurrence, a petition may be filed in the county of residence, and the arraignment and~~
27 ~~all further proceedings may be conducted in that county if the petition is admitted.~~

28 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be
29 held in the minor's county of residence. If the petition is resolved without a trial,
30 venue will remain in the minor's county of residence.

31 (2) Prosecutors and defense counsel in both the county of occurrence and the
32 county of residence must cooperate with each other both to provide discovery to
33 defense counsel and to assist in the resolution or litigation of each case.

34 (3) The prosecutor in the minor's county of residence has the authority to resolve
35 any out-of-county charge after consultation with the prosecutor in the county or
36 counties where the alleged offenses occurred.

37 (4) Prosecutors attempting to resolve petitions must observe the rights of any
38 alleged victim in the county or counties of occurrence.

39 (c) Transfer of venue. ~~After the filing of a petition alleging a delinquency or criminal~~
40 ~~action, the court may transfer the case to the district where the minor resides or the~~
41 ~~district where the violation of law or ordinance is alleged to have occurred. The court~~
42 ~~may, in its discretion, after adjudication certify the case for disposition to the court of the~~
43 ~~district in which the minor resides.~~

44 (1) Once the court in the county of residence determines that the matter cannot be
45 resolved, venue will be transferred to the county of occurrence for trial
46 proceedings and scheduling.

47 (2) Any motions related to the admission, exclusion, or suppression of evidence at
48 trial will be filed in and ruled upon by the trial court.

49 (3) Motions for inquiry into competency may be raised and ruled upon in either
50 court. The court in the county of residence and the court in the county of
51 occurrence will communicate and consult regarding the motion. The objective of

52 the communication is to consider the appropriate venue for a competency ruling
53 and attainment proceedings.

54 (4) If the petition is adjudicated, the case will be transferred back to the court in
55 the minor's county of residence for disposition and continuing jurisdiction.

56 (d) Notice to and proceedings in the receiving court. With each transfer, ~~the~~
57 transferring ~~or certifying~~ court ~~shall~~will provide notice to the receiving court of the
58 petitions or adjudications subject to transfer.~~notify the receiving court and transmit all~~
59 ~~documents and legal and social records, or certified copies thereof, to the receiving court.~~
60 The receiving court ~~shall~~will proceed with the case from the point where the preceding
61 court transferred the case as though~~if~~ the petition had been ~~originally~~ filed or the
62 adjudication had been ~~originally~~ made in the ~~at~~ receiving court.

63 (e) Dismissal of petition. The dismissal of a petition in one district where the dismissal
64 is without prejudice and where there has been no adjudication upon the merits ~~shall~~does
65 not preclude refiling within the same district or another district where venue is proper.

1 **Rule 16. Transfer of delinquency case and venue.**

2 (a) **Transfer of delinquency case for preliminary inquiry.**

3 (1) When a minor resides in a county other than the county in which the alleged
4 delinquency occurred and the minor initially qualifies for a nonjudicial adjustment
5 pursuant to statute, the probation officer of the county of occurrence must transfer
6 the referral to the minor's county of residence for a preliminary inquiry to be
7 conducted in accordance with Rule 15.

8 (2) If the minor or the minor's parent, guardian, or custodian cannot be located or
9 fails to appear after notice of the preliminary inquiry or the minor declines an offer
10 for a nonjudicial adjustment, the referral must be transferred back to the county of
11 occurrence for a determination as to whether to file a petition.

12 (b) **Arraignment and pretrial proceedings.**

13 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be
14 held in the minor's county of residence. If the petition is resolved without a trial,
15 venue will remain in the minor's county of residence.

16 (2) Prosecutors and defense counsel in both the county of occurrence and the
17 county of residence must cooperate with each other both to provide discovery to
18 defense counsel and to assist in the resolution or litigation of each case.

19 (3) The prosecutor in the minor's county of residence has the authority to resolve
20 any out-of-county charge after consultation with the prosecutor in the county or
21 counties where the alleged offenses occurred.

22 (4) Prosecutors attempting to resolve petitions must observe the rights of any
23 alleged victim in the county or counties of occurrence.

24 (c) **Transfer of venue.**

25 (1) Once the court in the county of residence determines that the matter cannot be
26 resolved, venue will be transferred to the county of occurrence for trial
27 proceedings and scheduling.

28 (2) Any motions related to the admission, exclusion, or suppression of evidence at
29 trial will be filed in and ruled upon by the trial court.

30 (3) Motions for inquiry into competency may be raised and ruled upon in either
31 court. The court in the county of residence and the court in the county of
32 occurrence will communicate and consult regarding the motion. The objective of
33 the communication is to consider the appropriate venue for a competency ruling
34 and attainment proceedings.

35 (4) If the petition is adjudicated, the case will be transferred back to the court in
36 the minor's county of residence for disposition and continuing jurisdiction.

37 (d) **Notice to and proceedings in the receiving court.** With each transfer, the transferring
38 court will provide notice to the receiving court of the petitions or adjudications subject to
39 transfer. The receiving court will proceed with the case from the point where the
40 preceding court transferred the case as though the petition had been filed or the
41 adjudication had been made in the receiving court.

42 (e) **Dismissal of petition.** The dismissal of a petition in one district where the dismissal
43 is without prejudice and where there has been no adjudication upon the merits does not
44 preclude refileing within the same district or another district where venue is proper.

TAB 6

1 **Rule 16A. Transfer of a non-delinquency proceeding.**

2 (a) After the adjudication of a petition in a non-delinquency proceeding, the court may
3 transfer the case to the district where the minor or parent resides so long as the court
4 finds it is in the best interest of the minor.

5 (b) A case may not be transferred prior to adjudication unless the court finds good cause
6 to transfer the matter to another district.

7 (c) The court may not transfer the case to another district after the initial disposition
8 hearing unless the transferring court first communicates and consults with the receiving
9 court.

10 (d) With each transfer, the receiving transferring court shall will provide notice to the
11 receiving court of any petition or adjudication subject to transfer. schedule a hearing
12 ~~within 30 days of receiving notice of the transfer.~~

13 (e) ~~The transferring or certifying court shall notify the receiving court and transmit all~~
14 ~~documents and legal and social records, or certified copies thereof, to the receiving court.~~
15 The receiving court shall will schedule a hearing within 30 days of receiving notice of the
16 transfer and will proceed with the case as if though the petition had been ~~originally~~ filed
17 or the adjudication had been ~~originally~~ made in the receivingat court.

18 (f) The dismissal of a petition in one district where the dismissal is without prejudice and
19 where there has been no adjudication upon the merits ~~shall~~ does not preclude refiling
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14 adjudication had been made in the receiving court.

15 (f) The dismissal of a petition in one district where the dismissal is without prejudice and
16 where there has been no adjudication upon the merits does not preclude refiling within
17 the same district or another district where venue is proper.

TAB 7

1 **Rule 44. Findings and conclusions.**

2 (a) If, upon the conclusion of an adjudicatory hearing, the court determines that the
3 material allegations of the petition are established, it ~~shall~~will announce its ruling. The
4 findings of fact upon which it bases its determination may also be announced or reserved
5 for entry by the court in an order as provided in these Rules. In cases concerning any
6 minor who has violated any federal, state, or local law or municipal ordinance, or any
7 person under 21 years of age who has violated any such law or ordinance before
8 becoming 18 years of age, findings of fact ~~shall~~will not be necessary. If, after such a
9 determination, the dispositional hearing is not held immediately and the minor is in
10 detention or shelter care, the court ~~shall~~will determine whether the minor shall be
11 released or continued in detention, shelter care or the least restrictive alternative
12 available.

13 (b) In proceedings under Utah Code sections 80-6-402, 80-6-503, and 80-6-504, and in
14 abuse, neglect, dependency, termination of parental rights, and contested adoption cases,
15 the court ~~shall~~will enter findings of fact and conclusions of law with specific reference to
16 each statutory requirement considered, setting forth the complete basis for its
17 determination. Such findings and conclusions may be prepared by counsel at the
18 direction of the court, but ~~shall~~will be reviewed and modified as deemed appropriate by
19 the court prior to the court's acceptance and signing of the documents submitted by
20 counsel.

21 (c) The court may at any time during or at the conclusion of any hearing, dismiss a
22 petition and terminate the proceedings relating to the minor if such action is in the
23 interest of justice and the welfare of the minor. ~~The court shall dismiss any petition which~~
24 ~~has not been proven.~~

25 (1) In a non-delinquency case, the court will dismiss any petition which has not
26 been proven.

27 (2) In a delinquency case, the court will enter a finding that an allegation is Not
28 True if the allegation has not been proven.

29 (d) After the dispositional hearing, the court ~~shall~~will enter an appropriate order or
30 decree of disposition.

31 (e) Adjudication of a petition alleging abuse, neglect, or dependency of a child ~~shall~~will
32 be conducted also in accordance with Utah Code sections 80-3-201 and 80-3-401.

33 (f) Adjudication of a petition to review the removal of a child from foster care ~~shall~~will
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