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

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting

Date: December 5, 2025

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of the November 7, 2025 meeting minutes.	Tab 1	Matthew Johnson
Discussion & Action: Rule 16. Transfer of delinquency case and venue. • *After a recent conference with the Utah Supreme Court, the Court asked that the Committee discuss and reframe a few provisions in the rule, particularly in subparagraph (b)(3), and make them more court-facing.* • *Additional alternate language is proposed to subparagraph (b)(2) for the Committee to consider.*	Tab 2	All
Discussion & Action: New Rule 23. Appointment of Counsel. • *Vice-chair Bill Russell submits new Rule 23 to the Committee regarding the appointment of counsel in cases where a minor may be bound over to the district court.*	Tab 3	William Russell
Discussion & Action: Rule 18. Summons; service of process; notice. • *The AOC's Juvenile Court Team proposes amending paragraph (d) of Rule 18 to allow for notice to parties by*	Tab 4	Erika Larsen Dawn Hautamaki

email when an email address has been provided to the court. Several other changes were made to improve clarity and style.		
Discussion & Action: Rule 20. Discovery. • *Judge Johnson proposes further amendments to Rule 20 to address expert notice. Three options are proposed: (1) adoption of provisions found in Utah Code section 77-17-13; (2) borrow language found in Rule 20A(h); or (3) cross reference to Utah Code section 77-17-13.*	Tab 5	Judge Johnson
Discussion & Action: Section VI Proceedings under Utah Code section 80-6-503. • *Committee staff propose amending the section title to "Section VI Proceedings under Title 80, Chapter 6, Part 5.* • *Specific references to statute in the titles of Rules 21 and 23A are also removed.*	Tab 6	All
Discussion & Action: 2026 Meeting Schedule • *The Committee will discuss and approve the 2026 meeting schedule. See below.*		All
Discussion: Old business or new business.		All

URJP Committee Site

Proposed 2026 Meeting Schedule:

January 2, 2026

February 6, 2026

March 6, 2026

April 3, 2026

May 1, 2026

June 5, 2026

August 7, 2026

September 4, 2026

October 2, 2026

November 6, 2026

December 4, 2026

TAB 1

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

Draft Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: November 7, 2025

Time: 12:00 p.m. – 2:00 p.m.

Attendees:	**Excused Members**:
Matthew Johnson, Chair William Russell, Vice Chair Adrianna Davis Alexa Arndt Carolyn Perkins David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin Janette White Judge David Johnson Judge Debra Jensen Michelle Jeffs	Alan Sevison, Emeritus Member James Smith Stephen Starr Thomas Luchs
	Guests: Jacqueline Carlton Judge Jeffry Ross
Staff: Raymundo Gallardo, Administrative Office of the Courts Tyler Ulrich, Recording Secretary	

1. **Welcome and approval of the October 10, 2025, Meeting Minutes**. (Matthew Johnson)

Committee Chair Matthew Johnson welcomed everyone to the meeting and introduced today's guests. Chair Johnson then presented the proposed minutes from the October 10, 2025, Committee meeting and asked if there were any comments or corrections that needed to be made. There were no comments from the Committee, and no proposed corrections were presented. Judge David Johnson made a motion to approve the proposed minutes. Judge Debra Jensen seconded the motion, and it passed unanimously.

2. **Discussion & Action: Rule 16. Transfer of delinquency case and venue.** (Judge Jeffry Ross)

Judge Jeffry Ross addressed Rule 16 and reported on how some parties are addressing subparagraph (b)(2). Judge Ross has presided over hearings that have become contentious when addressing cooperation between prosecutors in different counties, where the current language in the rule supposes cooperation between the two prosecuting agencies. Judge Ross suggested the Committee consider alternative language to clarify various parties' responsibilities.

Vice-Chair William Russell drafted proposed language that was presented to the Committee, and he reported that several jurisdictions have faced similar issues to what Judge Ross is reporting. Vice-Chair Russell's proposed language would require prosecutors in a minor's county of residence work with not only prosecutors, but also law enforcement agencies in the county of occurrence to obtain discovery. Vice-Chair Russell stated that the proposed language also clarifies that it is the prosecutor in the county of residence that must obtain and provide discovery, as well as authorizes prosecutors in the county of residence to facilitate potential resolutions.

Judge Jensen reported that Second District has faced the same issue, and local prosecutors have had difficulty in communicating with prosecutors in the county of occurrence. Judge Jensen stated that prosecutors have had difficulty with Salt Lake County specifically and noted reports that there may not be assigned prosecutors there to authorize potential resolutions.

Judge Johnson liked the proposed changes and added that including language such as "if available" when referring to communicating with prosecutors in the county of occurrence, thus requiring reasonable efforts on the part of the prosecutor in the county of residence to communicate with outside prosecuting agencies. Chair Johnson was concerned with using the term "reasonable efforts" as that language has specific references to the Child Welfare code and may require specific findings on the part of

a judge. Judge Johnson agreed and suggested that the language be modified but include the same intent.

Vice-Chair Russell reported that he has personally had difficulty at times in reaching out to prosecutors in other counties when trying to resolve a case. The proposed language would allow a prosecutor in the county of residence to report to a court what specific efforts they have made, thus allowing a judge to make a finding of compliance with Rule 16.

Alexa Arndt expressed concern that the proposal still leaves ambiguity in what prosecutor has the final say in making offers to resolve cases. Vice-Chair Russell shared that he believes the prior subparagraph makes it clear that the prosecutor in the county of residence has the authority to resolve a case.

Janette White suggested language be added that would require the prosecutor in the county of residence to put on the record what attempts were made to communicate with the outside prosecuting agency and proposed the term "reasonable attempts" in lieu of "reasonable efforts." Ms. White compared such attempts as those required in Rule 53 for appointed defense counsel to be released or a moving party making a record of what attempts for service have been made. Judge Johnson made specific language suggestions that were added to the current draft of the subparagraph.

Michelle Jeffs share that, as a former prosecutor, she would be nervous to override another county prosecutor's offer to resolve a matter. Adrianna Davis agreed with Ms. Jeffs and noted that each prosecutor has their own prosecutorial discretion. Ms. Davis shared that if a trial is going to occur in the county where a crime is alleged to have been committed, she would not feel comfortable changing that prosecutor's offer. Ms. Davis added that, in Salt Lake County, the prosecuting agency often does not know what judge or prosecutor will be assigned a case, especially if the minor does not have prior history with a specific judge.

Vice-Chair Russell believed the current draft of the rule makes everyone's responsibility more clear and noted that if a case arises where the two county prosecutors disagree on a potential resolution, a judge could hold a hearing with both prosecutors present to address the issue.

Judge Ross agreed with Ms. Jeffs and Ms. Davis that a home county prosecutor would likely be more deferential to the prosecutor in the county of occurrence, but the rule does still allow for proper prosecutorial discretion. Judge Ross thought it would be a rare occurrence to see the need to hold a hearing with both prosecutors present to resolve this issue.

Raymundo Gallardo presented the current draft of the rule with the proposed language and changes made by the Committee. There were no further comments from Committee members. Dawn Hautamaki made a motion to adopt the changes as currently presented. Elizabeth Ferrin seconded the motion, and it passed unanimously. Mr. Gallardo explained that, under the standard timelines, such changes would not take effect until May 2026 and asked if the Committee sees a need to expedite the process. Chair Johnson believed this should be addressed sooner than the standard timeline allowed as several jurisdictions are seeing this issue arise. The Committee was unanimous that this issue should be expedited.

3. **Discussion and Action: Rule 20A. Discovery in non-delinquency proceedings**. (All)

The Committed began by discussing the issue of subheadings that began at the last meeting. Chair Johnson reminded the Committee that it was suggested to remove subheadings from shorted subparagraphs that merely repeated the language of that subparagraph. Chair Johnson stated that he was not sure how the Supreme Court would view this issue and thought that it may suggest keeping them on all subparagraphs or removing them from all subparagraphs.

Judge Johnson stated that subheadings are helpful, especially during hearings when attorneys are citing to specific rules. Vice-Chair Russell acknowledged that subheadings do make it easier to locate specific subparagraphs, especially in longer rules, and suggested keeping subheadings throughout the rules, even when it appears redundant. Ms. White agreed that having subheadings throughout the rules is helpful and should be kept. Ms. Ferrin shared her concern that requiring a subheading may become overbearing and does not think it needs to be included or excluded on all subparagraphs.

Mr. Gallardo added back the subheadings that had previously been removed. Mr. Gallardo also noted that, when presented to the Supreme Court, the justices had not made specific suggestions to remove them. Mr. Gallardo shared that, in one specific instance, the Supreme Court had even amended the language of a subheading.

Ms. White made a motion to adopt the current draft of Rule 20A to be presented to the Supreme Court. Judge Johnson seconded the motion, and it passed unanimously.

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

Chair Johnson reported that Rule 15 was posted for public comment and one comment was received. The comment was regarding the definition or preliminary inquiry and whether this Committee should include such a definition in Rule 15. Vice-

Chair Russell stated that it is already defined in Rule 5 and does not see the need to cite back to that rule or repeat the definition in Rule 15.

Mr. Gallardo shared that the general counsel from the Administrative Office of the Court has also given input to this rule regarding whether a parent is required to participate in the preliminary inquiry. Vice-Chair Russell pointed out that it is the legislature that defines and decides policies such as preliminary inquiries. Vice-Chair Russell stated that, under current law, a youth gets to make the final decision whether to accept or reject the offer of a nonjudicial adjustment after being informed of their right to counsel. A parent cannot override or veto the youth's decision, and the general counsel is correct that the law no longer requires that a parent participate in the process.

Chair Johnson inquired about the level of participation from parents in the nonjudicial adjustment process. Vice-Chair Russell clarified that parents are still involved and help with the screening process to determine a minor's risk level. Parents still receive letters informing them to bring the minor to a meeting with probation. However, if the statutory criteria are met, probation must offer a nonjudicial adjustment. Only the minor has the right to make the final decision whether to accept or decline the nonjudicial adjustment. Vice-Chair Russell shared that there have been instances of a parent having their own agenda and pushing a minor to decline a nonjudicial adjustment, so this clarifies that it is the minor that makes the final decision.

Judge Johnson shared that he had experiences as delinquency defense counsel of parents asking how a minor can make such a decision as a child. Judge Johnson explained that it is the child that faces the ultimate consequences of a case and whether a nonjudicial adjustment is accepted.

There was no further discussion regarding the current draft of Rule 15. Vice-Chair Russell made a motion to adopt the proposed language and send it back to the Supreme Court, and to be posted for further public comment. The motion was seconded by Judge Jensen and passed unanimously.

5. **Discussion and Action: Rule 18. Summons; service of process; notice.** (Erika Larsen, Dawn Hautamaki)

Ms. Hautamaki reported that the AOC would like to remove the language in Rule 18 that requires prior consent to receive notice of further hearings by email. This would allow a court to send notice by email to parents who have provided an email address to the court.

Judge Johnson supported such a change and pointed out that it does not change how an initial summons must be served. Chair Johnson asked if this was already being

done, and Ms. Hautamaki explained that it is only done when a party has given prior consent on the record.

David Fureigh explained that the Attorney General's Office sends out a lot of notices and orders and asked if the rule could be clarified to allow such documents to also be sent by email.

Carolyn Perkins expressed concern that her clients in Child Welfare matters often lose access to their email accounts, such as if they are incarcerated or lose access to their phone. Ms. Perkins expressed concern about removing the requirement that a party consent to receive notices by email. Ms. Hautamaki noted that Rule 5 of the Utah Rules of Civil Procedure already recognizes email as an acceptable form of service.

Ms. White shared Ms. Perkins' concerns, especially when the consequence of not appearing for a hearing could be that a warrant is issued. Parents often lose access to their email, or notices could end up being marked as junk or spam.

Judge Johnson noted that an incarcerated parent would not be held in contempt for missing a hearing due to their incarceration. Judge Johnson pointed out that this is the only form of service that requires prior consent, and Ms. Hautamaki reported that email is the fastest way to provide notice to a party. Judge Johnson reiterated that Civil Rule 5 already authorizes notice by email, and it appears that this is an effort to bring this rule in conformity with the other rules. Ms. Davis shared that in her experience, email is far more effective than traditional mail and phone numbers.

Mr. Fureigh pointed out that while the juvenile rules adopt the civil rules, the district court electronic filing system is very different than the juvenile court's CARE system. Ms. Hautamaki shared that they are working on creating automatic notifications in CARE. Mr. Fureigh further noted that a parent is not required to share an email address, and this would only apply to those that have provided one. Ms. Perkins was concerned that judges do not always warn parents about consenting to receiving notices by email.

Judge Jensen did not see a difference in requiring a party to keep their physical address updated and keeping an updated email address on file with the court, and was in favor of adopting the same processes allowed in the civil rules. Ms. Hautamaki also clarified that this would not take the place of a parent's responsibility to communicate with their attorney but would simply give them a prompter notice.

Mr. Gallardo recommended that this matter be tabled until the next meeting as law clerk staff Erika Larsen helped draft this change and was not able to attend today's meeting. Judge Johnson agreed and made a motion to table the discussion until the next meeting. Vice-Chair Russell seconded that motion, and it passed unanimously.

6. **Discussion and Action: Rule 7. Warrants.** (All)

The AOC Juvenile Court team has proposed adding a seventh factor in Rule 7(b) that brings it in line with Utah Code 80-6-202. The proposed language would add that a warrant may be issued if there is probable cause to believe that a summons for the minor would be ineffectual. Vice-Chair Russell stated that the rule should be in line with the statute and thinks that the additional language should be adopted.

There was no further discussion regarding the proposed language. Ms. Jeffs made a motion to adopt the change as proposed. The motion was seconded by Ms. White and passed unanimously. The proposed change will be presented to the Supreme Court.

7. **Discussion and Action: Rule 22. Initial appearance and preliminary examination in cases under Utah Code section 80-6-503 and 80-6-504.** (Judge Johnson)

Judge Johnson explained that there is a discrepancy in the criminal rules and Rule 22 for the timeframe before a preliminary hearing. Judge Johnson explained that this change would only be applicable to transfer cases, and that the juvenile rule had not been updated since there has been a shift away from counting "business days." Judge Jensen noted that it is nearly impossible to hold a preliminary hearing within 10 days, so changing it to 14 days makes sense. Ms. Davis shared that this is an important change to make from a prosecutor's standpoint. Vice-Chair Russell and Ms. Perkins had no concerns over making this change from a defense perspective.

Mr. Fureigh shared that he was a member of this Committee when this issue was presented in the past, and that there was some pushback from defense counsel. Ms. Perkins noted that every party usually needs more time to prepare for transfer case preliminary hearings, including defense counsel. Vice-Chair Russell added that the timeframe is often waived by defense to allow for time to prepare for such important hearings. Ms. White noted that, if there is concern from practitioners, they can express such concerns during a public comment period.

Judge Johnson made a motion to present the proposed changes to Rule 22 to the Supreme Court. Ms. Jeffs seconded the motion, and it passed unanimously. Mr. Gallardo pointed out some stylistic changes that may need to be changed, and shared that he, Chair Johnson, and Vice-Chair Russell can discuss those issues when they meet with the Supreme Court.

8. **Discussion and Action: New Rule 23B Workgroup Update.** (William Russell)

Vice-Chair Russell updated the Committee on the progress being made by the workgroup on the new proposed Rule 23B. Vice-Chair Russell reported that the meetings have been productive and that he, Alexa Arndt, and staff have created a new

draft of the proposed rule regarding qualifications of counsel in transfer cases. Vice-Chair Russell noted that the prior Rule 23 has been repealed and thought it would make sense to change the new proposal from Rule 23B to simply Rule 23.

Vice-Chair Russell did not believe the proposed rule is ready for a vote today but wanted to share the changes with this Committee in the hope that it could be ready for a vote at the next meeting. Vice-Chair Russell pointed out a few stylistic changes that were made to bring the proposed language in line with other rules and appellate opinions.

From a substantive standpoint, Vice-Chair Russell reported that the requirements have been dialed back to allow more practitioners to qualify to act as appointed counsel in these cases. Chair Johnson asked if the requirements would also apply to attorneys Guardian ad Litem, and Vice-Chair Russell clarified that they would only apply to delinquency defense counsel. Vice-Chair Russell went through the substantive changes and explained the reasoning behind each of those changes. Specifically, Vice-Chair Russell shared that some of the most substantive changes occurred in looking at requirements for privately retained counsel in transfer cases. Vice-Chair Russell shared concern over the constitutional right to counsel of choice and balancing that with the qualifications of privately retained counsel. Judge Johnson asked if the requirements in the criminal rules regarding death penalty cases also applied to privately retained counsel. Vice-Chair Russell shared that the criminal rule does not apply to privately retained counsel, and that is why it was originally left out of the draft of this rule.

9. **Discussion: Old business or new business.** (All)

Judge Johnson asked if Rule 20 has been presented to the Supreme Court yet as he noticed an issue in regard to expert notice in delinquency cases. Judge Johnson stated that as of now, there is no governing rule regarding expert notice in delinquency cases, and that adult cases have a statute that covers those requirements. Judge Johnson asked that this issue be discussed when Rule 20 is presented to the Supreme Court.

Ms. Ferrin thanked Vice-Chair Russell for the presentation he gave earlier this week in the Juvenile Law Section CLE presented by the Utah State Bar.

The meeting adjourned at 2:00 p.m. The next meeting will be held on December 5, 2025, via Webex.

TAB 2

Rule 16. Transfer of delinquency case and venue.

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

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

(2) If the minor or the minor's parent, guardian, or custodian cannot be located or fails to appear after notice of the preliminary inquiry, or the minor declines an offer for a nonjudicial adjustment, the probation officer must transfer the referral back to the county of occurrence to determine whether to file a petition.

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

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

(2) A ~~P~~prosecutor~~s~~ in the minor's county of residence must work with the prosecutor and law enforcement agency in the county of occurrence to obtain and ~~defense counsel in both the county of occurrence and the county of residence must cooperate with each other both to~~ provide discovery to defense counsel in the minor's county of residence. ~~and to assist in the resolution or litigation of each case.~~ Discovery must be provided to defense counsel in the minor's county of residence within the time periods set forth in Rule 16 of the Utah Rules of Criminal Procedure. After discovery is provided to defense counsel, the prosecutor in the minor's county of residence and the prosecutor in the county of occurrence must consult to try to resolve the petition in the minor's county of residence.

Alternate (b)(2):

(2) Upon request by defense counsel in the minor's county of residence, the prosecutor in the county of occurrence must provide discovery to both the prosecutor and defense counsel in the minor's county of residence within the time periods set forth in Rule 16 of the Utah Rules of Criminal Procedure. Any motions related to discovery must be served on the prosecutor in the county of occurrence but must be heard and decided by the court in the minor's county of residence.

(3) Before the court in the minor's county of residence accepts an admission or plea of *no contest* to resolve an out-of-county petition, the court will make a finding that ~~T~~the prosecutor in the minor's county of residence has ~~the authority to resolve any out-of-county charge after~~ consulted~~ation~~ with ~~the~~a prosecutor in the county ~~or counties~~ of occurrence or that reasonable efforts have been made to communicate with that prosecutor.~~where the alleged offenses occurred.~~ If no communication results within a reasonable time, the court in the minor's county of residence may approve and enter a resolution of the petition after a statement on the record of all attempts to contact a prosecutor in the county of occurrence including dates, methods of contact, and any responses received.

(4) A prosecutor attempting to resolve a petition must respect the rights of any alleged victim in the county or counties of occurrence.

(c) **Transfer of venue.**

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

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

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

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

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

(d) **Notice to and proceedings in the receiving court**. With each transfer, the transferring court will provide notice to the receiving court of any petition or adjudication subject to transfer. The receiving court will proceed with the case as though the petition was filed or the adjudication was made in the receiving court.

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

Effective Date:

TAB 3

Appointment of counsel.

(a) **Qualification of defense counsel in cases subject to bindover**. In all cases in which counsel is appointed to represent a minor who is charged by information filed in the juvenile court under Utah Code section 80-6-503, the court will appoint one or more attorneys to represent the minor and will make a finding on the record that appointed defense counsel is competent under this rule to litigate the preliminary hearing. To be found competent to represent a minor charged in such a case, the experience of the appointed attorneys must meet the following requirements:

(1) within the last five years, at least one of the appointed attorneys must have completed or taught at least four hours of approved continuing legal education which dealt, in substantial part, with the representation of youth in such proceedings and including principles of adolescent brain development;

(2) at least one of the appointed attorneys must have appeared as counsel and tried to judgment after trial, or to ruling after evidentiary hearing, at least four juvenile or adult prosecutions in the past five years, with at least one of the four cases as defense counsel or defense co-counsel; or, have appeared as counsel and tried to judgment after trial, or to ruling after evidentiary hearing, at least eight juvenile or adult prosecutions in the past 10 years, with at least two of the eight cases as defense counsel or defense co-counsel;

(3) at least one of the appointed attorneys must have appeared as defense counsel or defense co-counsel before the juvenile court in a preliminary hearing where the minor is subject to bindover, on both the probable cause and retention/transfer phases of the preliminary hearing. In the event that no attorney with this qualification is available for such appointment, one of the appointed attorneys must consult with an attorney with such qualification on a roster of such attorneys maintained by the Utah Indigent Defense Commission; and

(4) at least one of the appointed attorneys must have at least two years of aggregate experience in the active practice of juvenile defense.

(b) **Appointment considerations in preliminary hearings where the minor is subject to bindover**. In making its selection of attorneys for appointment in a specific transfer case, the juvenile court will also consider the following factors:

(1) whether the attorneys under consideration for appointment under this rule are members in good standing with the Utah State Bar;

(2) whether the attorneys under consideration for appointment under this rule have ever been the subject of a disciplinary proceeding and if so, when the proceedings took place and for what reason;

(3) whether one or more of the attorneys under consideration have previously appeared as defense counsel or defense co-counsel in a bindover case in the past five years;

(4) the extent to which the attorneys under consideration have sufficient time and support and can dedicate those resources to the representation of the minor in the bindover case now pending before the court with undivided loyalty to the minor;

(5) the extent to which the attorneys under consideration have familiarity with the selection, engagement, and incorporation of both social work professionals and experts necessary to formulate and execute a comprehensive and adequate case plan for the retention phase of the preliminary hearing;

(6) the extent to which the attorneys under consideration have engaged in the active practice of juvenile defense in the past two years;

(7) the diligence, competency, total workload, and ability of the attorneys being considered; and

(8) any other factor which may be relevant to a determination that counsel for appointment will fairly, efficiently, and effectively provide representation to the minor.

(c) **Qualification of privately-retained counsel.** At the initial hearing where privately-retained defense counsel appears, the court will make inquiry on the record and enter findings related to defense counsel's qualifications to provide adequate representation of the minor in respect to each of the factors set forth in paragraph (b) above.

(d) **Appeals of bindover orders**. In all cases where a minor is bound over to the district court, if appellate review of the bindover order is sought, the court will appoint one or more attorneys to represent the minor on such appeal who are currently on the Appellate Roster under Rule 11-401 of the Utah Code of Judicial Administration.

TAB 4

Rule 18. Summons; service of process; notice.

(a) **Summons**. Upon the filing of a petition, the clerk, unless otherwise directed by the court, will schedule an initial hearing in the case.

(1) A ~~S~~summons may be issued by the petitioning attorney. If the petitioning attorney does not issue a summons, a summons will be issued by the clerk in accordance with Utah Code section 78A-6-351. The summons must conform to the format prescribed by these rules.

(2) **Content of ~~the~~ summons**.

(A) **Abuse, neglect, and dependency cases**. The summons must contain the name and address of the court~~;~~, the title of the proceeding~~;~~, the type of hearing scheduled~~;~~ and the date, place, and time of the hearing scheduled pursuant to subparagraph (a). It must state the time within which the respondent is required to answer the petition, and must notify the respondent that judgment by default may be rendered against the respondent ~~in the case of the~~ fail~~s~~ure to timely do so~~, judgment by default may be rendered against the respondent~~. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(B) **Termination of parental rights cases**. The summons must contain the name and address of the court~~;~~, the title of the proceeding~~;~~, the type of hearing scheduled~~;~~ and the date, place, and time of the hearing. It must state the time within which the respondent is required to answer the petition. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(C) **Other cases**. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place, and

time of the hearing. It must also contain an abbreviated reference to the substance of the petition. In proceedings against an adult pursuant to Utah Code section 78A-6-450, the summons must conform to Rule 6 of the Utah Rules of Criminal Procedure and be issued by the prosecuting attorney.

(3) The summons must be directed to the person or persons who have physical care, control, or custody of the minor and require them to appear and bring the minor before the court. If the person so summoned is not the parent, guardian, or custodian of the minor, a summons must also be issued to the parent, guardian, or custodian. If the minor or person who is the subject of the petition has been emancipated by marriage or is 18 years of age or older at the time the petition is filed, the summons may require the appearance of the minor only, unless otherwise ordered by the court. In neglect, abuse, and dependency cases, unless otherwise directed by the court, the summons must not require the appearance of the subject minor.

(4) No summons is necessary as to any party who appears voluntarily or who files a written waiver of service with the clerk prior to or upon appearance at the hearing.

(b) **Service**.

(1) Except as otherwise provided by these rules or by statute, service of process and proof of service must be made by the methods provided in Rule 4 of Utah Rules of Civil Procedure. Service of process must be made by the sheriff of the county where the service is to be made, by a deputy, by a process server, or by any other suitable person appointed by the court. However, when the court so directs, an agent of the Department of Health and Human Services may serve process in a case in which the Department is a party. A party or party's attorney may serve another party at a court hearing. The record of the proceeding will reflect the service of the document and will constitute the proof of service.

(2) Personal service may be made upon a parent, guardian, or custodian and upon a minor in that person's legal custody by delivering to a parent, guardian, or custodian

a copy of the summons with a copy of the petition attached. If a minor is in the legal custody or guardianship of an agency or person other than a parent, service must also be made by delivering to the legal custodian a copy of the summons with a copy of the petition attached and notice must be given to the parent as provided in paragraph (d). Service upon a minor who has attained majority by marriage as provided in Utah Code ~~S~~section 15-2-1 or upon court order must be made in the manner provided in Rule 4 of the Utah Rules of Civil Procedure.

(3) Service may be made by any form of mail requiring a signed receipt by the addressee. Service is complete upon return to court of the signed receipt. Service of process may be made by depositing a copy thereof in the United States mail addressed to the last known address of the person to be served. Any person who appears in court in response to mailed service is considered to have been legally served.

(4) In any proceeding wherein the parent, guardian, or custodian cannot after the exercise of reasonable diligence be located for personal service, the court may proceed to adjudicate the matter subject to the right of the parent, guardian, or custodian to a rehearing, except that in certification proceedings brought pursuant to Title 80, Chapter 6, Part 5, Transfer to District Court and in proceedings seeking permanent termination of parental rights, the court will order service upon the parent, guardian, or custodian by publication. Any rehearing must be requested by written motion.

(5) Service must be completed at least 48 hours prior to the adjudicatory hearing. If the summons is for the permanent termination of parental rights, service must be completed at least ten days before the adjudicatory hearing. If the summons is for a substantiation proceeding, service must be completed at least 45 days before the adjudicatory hearing.

(c) **Service by publication**. Service by publication must be authorized by the procedure and in the form provided by ~~the~~ Utah ~~Juvenile~~ Code section 78B-6-1206 and Rule 4 of Utah Rules of Civil Procedure except that within the caption and the body of any published document, children must be identified by their initials and respective birth

dates, and not by their names. The parent, guardian, or custodian of each child must be identified as such using their full names within the caption of any published document.

(d) **Notice of further proceedings**.

(1) Notice of the time, date, and place of any further proceedings, after an initial appearance or service of a summons, may be given in open court ~~or~~, by mail, or by email to any party. Notice is sufficient if ~~the clerk~~it is deposited~~s the notice~~ in the United States mail, postage pre-paid, to the address provided by the party in court or the address at which the party was initially served, or~~,~~ sends notice to the email address provided by the party in court ~~if the~~ or to the email address provided pursuant to Rule 10 or Rule 76 of the Utah Rules of Civil Procedure ~~party has agreed to accept service by email, sends notice to the email address provided by the party~~. Service should be effectuated by the method most likely to be promptly received.

(2) Notice for any party represented by counsel must be given to counsel for the party through either mail, notice given in open court, or by email to the email address on file with the Utah State Bar.

(e) **Additional parties**. Whenever it appears to the court that a person who is not the parent, guardian, or custodian should be made subject to the jurisdiction and authority of the court in a minor's case, upon the motion of any party or the court's own motion, the court may issue a summons ordering such person to appear. Upon the appearance of such person, the court may enter an order making ~~such~~the person a party to the proceeding and may order ~~such~~the person to comply with reasonable conditions as a part of the disposition in the minor's case. Upon the request of such person, the court will conduct a hearing upon the issue of whether ~~such~~the person should be made a party.

(f) **Service of pleadings and other papers**. Except as otherwise provided by these rules or by statute, service of pleadings and other papers not requiring a summons must be made by the methods provided in Rule 5 of Utah Rules of Civil Procedure~~, except that~~

~~service to the email address on file with the Utah State Bar is sufficient service to an attorney under this rule, whether or not an attorney agrees to accept service by email.~~

~~(g)~~ Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for eFiling documents does not constitute an electronic filing account as referenced in Rule 5 of the Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

Rule 18. Summons; service of process; notice.

(a) **Summons**. Upon the filing of a petition, the clerk, unless otherwise directed by the court, will schedule an initial hearing in the case.

(1) A summons may be issued by the petitioning attorney. If the petitioning attorney does not issue a summons, a summons will be issued by the clerk in accordance with Utah Code section 78A-6-351. The summons must conform to the format prescribed by these rules.

(2) **Content of summons**.

(A) **Abuse, neglect, and dependency cases**. The summons must contain the name and address of the court; the title of the proceeding; the type of hearing scheduled; and the date, place, and time of the hearing scheduled pursuant to subparagraph (a). It must state the time within which the respondent is required to answer the petition, and must notify the respondent that judgment by default may be rendered against the respondent if the respondent fails to timely do so. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(B) **Termination of parental rights cases**. The summons must contain the name and address of the court; the title of the proceeding; the type of hearing scheduled; and the date, place, and time of the hearing. It must state the time within which the respondent is required to answer the petition. It must contain an abbreviated reference to the substance of the petition. It must include the bilingual notice set forth in the juvenile form summons approved by the Utah Judicial Council.

(C) **Other cases**. The summons must contain the name and address of the court, the title of the proceeding, the type of hearing scheduled, and the date, place, and time of the hearing. It must also contain an abbreviated reference to the substance of the petition. In proceedings against an adult pursuant to Utah Code section 78A-

6-450, the summons must conform to Rule 6 of the Utah Rules of Criminal Procedure and be issued by the prosecuting attorney.

(3) The summons must be directed to the person or persons who have physical care, control, or custody of the minor and require them to appear and bring the minor before the court. If the person so summoned is not the parent, guardian, or custodian of the minor, a summons must also be issued to the parent, guardian, or custodian. If the minor or person who is the subject of the petition has been emancipated by marriage or is 18 years of age or older at the time the petition is filed, the summons may require the appearance of the minor only, unless otherwise ordered by the court. In neglect, abuse, and dependency cases, unless otherwise directed by the court, the summons must not require the appearance of the subject minor.

(4) No summons is necessary as to any party who appears voluntarily or who files a written waiver of service with the clerk prior to or upon appearance at the hearing.

(b) **Service**.

(1) Except as otherwise provided by these rules or by statute, service of process and proof of service must be made by the methods provided in Rule 4 of Utah Rules of Civil Procedure. Service of process must be made by the sheriff of the county where the service is to be made, by a deputy, by a process server, or by any other suitable person appointed by the court. However, when the court so directs, an agent of the Department of Health and Human Services may serve process in a case in which the Department is a party. A party or party's attorney may serve another party at a court hearing. The record of the proceeding will reflect the service of the document and will constitute the proof of service.

(2) Personal service may be made upon a parent, guardian, or custodian and upon a minor in that person's legal custody by delivering to a parent, guardian, or custodian a copy of the summons with a copy of the petition attached. If a minor is in the legal custody or guardianship of an agency or person other than a parent, service must also

be made by delivering to the legal custodian a copy of the summons with a copy of the petition attached and notice must be given to the parent as provided in paragraph (d). Service upon a minor who has attained majority by marriage as provided in Utah Code section 15-2-1 or upon court order must be made in the manner provided in Rule 4 of the Utah Rules of Civil Procedure.

(3) Service may be made by any form of mail requiring a signed receipt by the addressee. Service is complete upon return to court of the signed receipt. Service of process may be made by depositing a copy thereof in the United States mail addressed to the last known address of the person to be served. Any person who appears in court in response to mailed service is considered to have been legally served.

(4) In any proceeding wherein the parent, guardian, or custodian cannot after the exercise of reasonable diligence be located for personal service, the court may proceed to adjudicate the matter subject to the right of the parent, guardian, or custodian to a rehearing, except that in certification proceedings brought pursuant to Title 80, Chapter 6, Part 5, Transfer to District Court and in proceedings seeking permanent termination of parental rights, the court will order service upon the parent, guardian, or custodian by publication. Any rehearing must be requested by written motion.

(5) Service must be completed at least 48 hours prior to the adjudicatory hearing. If the summons is for the permanent termination of parental rights, service must be completed at least ten days before the adjudicatory hearing. If the summons is for a substantiation proceeding, service must be completed at least 45 days before the adjudicatory hearing.

(c) **Service by publication**. Service by publication must be authorized by the procedure and in the form provided by Utah Code section 78B-6-1206 and Rule 4 of Utah Rules of Civil Procedure except that within the caption and the body of any published document, children must be identified by their initials and respective birth dates, and not by their names. The parent, guardian, or custodian of each child must be identified as such using their full names within the caption of any published document.

(d) **Notice of further proceedings**.

(1) Notice of the time, date, and place of any further proceedings, after an initial appearance or service of a summons, may be given in open court, by mail, or by email to any party. Notice is sufficient if it is deposited in the United States mail, postage pre-paid, to the address provided by the party in court or the address at which the party was initially served, or sends notice to the email address provided by the party in court or to the email address provided pursuant to Rule 10 or Rule 76 of the Utah Rules of Civil Procedure. Service should be effectuated by the method most likely to be promptly received.

(2) Notice for any party represented by counsel must be given to counsel for the party through either mail, notice given in open court, or by email to the email address on file with the Utah State Bar.

(e) **Additional parties**. Whenever it appears to the court that a person who is not the parent, guardian, or custodian should be made subject to the jurisdiction and authority of the court in a minor's case, upon the motion of any party or the court's own motion, the court may issue a summons ordering such person to appear. Upon the appearance of such person, the court may enter an order making the person a party to the proceeding and may order the person to comply with reasonable conditions as a part of the disposition in the minor's case. Upon the request of such person, the court will conduct a hearing upon the issue of whether the person should be made a party.

(f) **Service of pleadings and other papers**. Except as otherwise provided by these rules or by statute, service of pleadings and other papers not requiring a summons must be made by the methods provided in Rule 5 of Utah Rules of Civil Procedure. Access to the Juvenile Court's Court and Agency Records Exchange (C.A.R.E.) for eFiling documents does not constitute an electronic filing account as referenced in Rule 5 of the Rules of Civil Procedure. eFiling in C.A.R.E. does not constitute service upon a party.

TAB 5

Rule 20. Discovery ~~generally~~and subpoenas in delinquency and criminal proceedings.

(a) Discovery involving adjudications of delinquency, offenses by adults against minors, and proceedings brought pursuant to Title 80, Chapter 6, Part 5~~, Transfer to District Court shall~~must be conducted in accordance with Rule 16 of the Utah Rules of Criminal Procedure, except where limited by these rules, the Code of Judicial Administration, or the Utah Juvenile Code.

(b) Subpoenas used in adjudications of delinquency, offenses by adults against minors, and proceedings pursuant to Title 80, Chapter 6, Part 5 are governed by Rule 14 of the Utah Rules of Criminal Procedure.~~In substantiation cases, no later than thirty days prior to trial, parties shall provide to each other information necessary to support its claims or defenses unless otherwise ordered by the court.~~

~~(c) Rule 26.1 of the Utah Rules of Civil Procedure does not apply in any juvenile proceedings unless there is a showing of good cause and it is ordered by the court.~~

~~(d) In all other cases, discovery shall be conducted pursuant to these rules unless modified by a showing of good cause and by order of the court.~~

Option 1 – Borrow language from 77-17-13.

(c) **Expert testimony; notice requirements**.

(1) If the prosecution or the minor intends to call any expert to testify in a felony case at trial or any hearing, the party intending to call the expert must give notice to the opposing party as soon as practicable but not less than 30 days before trial or 10 days before the hearing. Notice must include the name and address of the expert, the expert's curriculum vitae, and one of the following:

(A) a copy of the expert's report, if one exists; or

(B) a written explanation of the expert's proposed testimony sufficient to give the party adequate notice to prepare to meet the testimony; and

(C) a notice that the expert is available to cooperatively consult with the opposing party on a reasonable notice.

(2) If an expert's anticipated testimony will be based in whole or part on the results of any tests or other specialized data, the party intending to call the witness must provide to the opposing party the information upon request.

(3) As soon as practicable after receipt of the expert's report or the information concerning the expert's proposed testimony, the party receiving notice must provide to the other party notice of witnesses whom the party anticipates calling to rebut the expert's testimony, including the information required under subparagraph (c)(1).

(4) **Failure to comply**.

(A) If the minor or the prosecution fails to substantially comply with the requirements of this section, the opposing party must, if necessary to prevent substantial prejudice, be entitled to a continuance of the trial or hearing sufficient to allow preparation to meet the testimony.

(B) If the court finds that the failure to comply with this section is the result of bad faith on the part of any party or attorney, the court will impose appropriate sanctions. The remedy of the exclusion of the expert's testimony will only apply if the court finds that a party deliberately violated the provisions of this section.

(5) This section does not apply to the use of an expert who is an employee of the state or its political subdivisions, so long at the opposing party is on reasonable notice through general discovery that the expert may be called as a witness at trial, and the witness is the made available to cooperatively consult with the opposing party upon reasonable notice.

Option 2 – Borrow language from Rule 20A(h).

(c) **Experts**.

(A) **Adjudication trials and hearings pursuant to Title 80, Chapter 6, Part 5**. Any person who has been identified as an expert whose opinions may be presented at trial or at the preliminary hearing must be disclosed by the party intending to present the witness at least 30 days prior to the trial or hearing unless modified by the court. Unless an expert report has been provided, a summary of the proposed testimony signed by the party or the party's attorney must be filed at the same time.

(B) **Motions**. Any person who has been identified as an expert whose opinions may be presented at the adjudication trial must be disclosed by the party intending to present the witness at least 14 days prior to the trial or hearing unless modified by the court. If ordered by the court, a summary of the proposed testimony signed by the party or the party's attorney must be filed at the same time.

Option 3 – Refer to 77-17-13.

(c) Expert notice in adjudications of delinquency, offenses by adults against minors, and proceedings pursuant to Title 80, Chapter 6, Part 5 must adhere to the provisions of Utah Code section 77-17-13.

TAB 6

Rule 21. Warrant of arrest or summons in cases subject to bindover~~under Utah Code section 80-6-503~~.

(a) Upon the return of an indictment alleging the commission of a felony governed by Utah Code section 80-6-503, the court ~~shall~~will issue either a warrant for the arrest or a summons for the appearance of the minor.

(b) Upon the filing of an information alleging the commission of a felony governed by Utah Code section 80-6-503, if it appears from the information, or from any affidavit filed with the information, that there is probable cause to believe that an offense governed by this section has been committed and that the minor has committed it, the court ~~shall~~will issue either a warrant for the arrest or a summons for the appearance of the minor.

(c) If it appears to the court that the minor will appear on a summons and there is no substantial danger of a breach of the peace, or injury to persons or property, or danger to the community, a summons may issue in lieu of a warrant of arrest to require the appearance of the minor. A warrant of arrest may issue in cases where the minor has failed to appear in response to a summons or citation or thereafter when required by the court. If a warrant of arrest is issued, the court ~~shall~~will state on the warrant:

(1) the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged; and

(2) whether the minor is to be taken to court, a detention facility, or a correctional facility.

(d) The warrant ~~shall~~must be executed by a peace officer. The summons may be served by a peace officer or any person authorized to serve a summons in a civil action.

(1) The warrant may be executed or the summons may be served at any place within the state.

(2) The warrant ~~shall~~must be executed by the arrest of the minor. The officer need not possess the warrant at the time of the arrest, but upon request ~~shall~~must show the warrant to the minor as soon as practicable. If the officer does not possess the warrant

at the time of the arrest, the officer ~~shall~~must inform the minor of the offense charged and of the fact that the warrant has been issued. The summons ~~shall~~must be served as in civil actions, or by mailing it to the minor's last known address.

(3) The person executing a warrant or serving a summons ~~shall~~must make return thereof to the juvenile court as soon as practicable. At the request of the prosecuting attorney, any unexecuted warrant ~~shall~~must be returned to the court for cancellation.

Effective Date:

Rule 23A. Hearing on factors ~~of Utah Code section 80-6-503~~; bind-over to district court.

(a) If a criminal indictment under Utah Code section 80-6-503 alleges the commission of a felony, the court ~~shall~~will, hear evidence and consider the factors in paragraph (b).

(b) If a criminal information under Utah Code section 80-6-503 alleges the commission of a felony, after a finding of probable cause in accordance with Rule 22, the court ~~shall~~will hear evidence and consider the factors and make findings on:

(1) the seriousness of the qualifying offense and whether the protection of the community requires that the minor be detained beyond the amount of time allowed under Utah Code section 80-6-~~601~~802, or beyond the age of continuing jurisdiction that the court may exercise under Utah Code section 80-6-605;

(2) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(3) the minor's mental, physical, educational, trauma, and social history;

(4) the criminal record or history of the minor; and

(5) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.

(c) The court may consider any written report or other materials that relate to the minor's mental, physical, educational, trauma, and social history. Upon request by the minor, the minor's parent, guardian, or other interested party, the court ~~shall~~will require the person preparing the report, or other material, to appear and be subject to direct and cross-examination.

(d) At the preliminary ~~examination~~hearing the minor may testify under oath, call witnesses, cross examine witnesses, and present evidence on the factors described in paragraph (b).

(e) If the court ~~does not~~ finds by a preponderance of the evidence that it ~~would be~~is contrary to the best interests of the minor and the ~~best interests of the~~ public ~~to bind the~~

~~minor over to the jurisdiction of the district court~~for the juvenile court to retain jurisdiction over the offense, the court ~~shall~~will enter an order directing the minor to answer the charges in district court.

(f) Upon entry of an order directing the minor to answer the charges in district court, the court ~~shall~~will comply with the requirements of Title 77, Chapter 20, Bail. By issuance of a warrant of arrest or continuance of an existing warrant, the court ~~shall~~will make an initial determination on where the minor is held until the time of trial. The court ~~shall~~will enter the appropriate written order.

(1) Once the minor is bound over to district court, a determination regarding where the minor is held ~~shall~~will be made pursuant to Utah Code section 80-6-504.

(2) The clerk of the juvenile court ~~shall~~will transmit to the clerk of the district court all pleadings in and records made of the proceedings in the juvenile court.

(3) The jurisdiction of the court ~~shall~~will terminate as provided by statute.

(g) If the court finds probable cause to believe that a felony has been committed and that the minor committed it and also finds that it would be in the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense, the court ~~shall~~will proceed upon the information as if it were a petition. The court may order the minor held in a detention center or released in accordance with Rule 9.

Effective Date: