



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

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting

Date: February 6, 2026

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of the January 9, 2026 meeting minutes.	Tab 1	Matthew Johnson
Discussion & Action: Rule 20 . Discovery. <ul style="list-style-type: none">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 2	Judge D. Johnson
Discussion & Action: Section VI Proceedings under Utah Code section 80-6-503. <ul style="list-style-type: none">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 Rule 21 and Rule 23A are also removed.	Tab 3	All
Discussion & Action: New Rule 23. Appointment of counsel. <ul style="list-style-type: none">At a recent conference, the Supreme Court questioned the need for this rule. If the Committee feels the rule is needed, the Court offered additional edits to improve clarity.	Tab 4	All

<p>Discussion & Action: Rule 18. Summons; service of process; notice.</p> <ul style="list-style-type: none"> • <i>The Committee will take-up again discussion on proposed amendments to paragraph (d).</i> • <i>Enclosed are two different proposals.</i> 	Tab 5	All
<p>Discussion: Rule 16. Transfer of delinquency case and venue.</p> <ul style="list-style-type: none"> • <i>The Committee will resume discussion on proposed amendments to Rule 16.</i> • <i>Enclosed are two different proposals.</i> 	Tab 6	All
<p>Discussion: Old business or new business.</p>		All

[URJP Committee Site](#)

Meeting Schedule:

February 6, 2026

August 7, 2026

March 6, 2026

September 4, 2026

April 3, 2026

October 2, 2026 - Hybrid

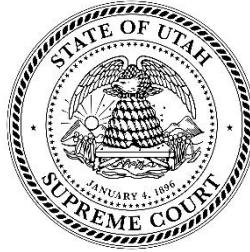
May 1, 2026

November 6, 2026

June 5, 2026

December 4, 2026

TAB 1



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

Matthew Johnson, Chair

Location: Webex Meeting

Date: January 9, 2026

Time: 12:00 p.m. – 2:00 p.m.

<u>Attendees:</u> Matthew Johnson, Chair William Russell, Vice-Chair Adrianna Davis Alan Sevison, Emeritus Member Alexa Arndt Carolyn Perkins David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin Janette White Judge David Johnson Michelle Jeffs Stephen Starr Thomas Luchs	<u>Excused Members:</u> Alexa Arndt James Smith Judge Debra Jensen Tyler Ulrich, Recording Secretary
	<u>Guests:</u> Stacy Haacke, AOC Deputy General Counsel Zerina Ocanovic, AOC Deputy Juvenile Court Administrator

15 **1. Welcome and approval of the December 5, 2025, Meeting Minutes.** (William Russell)

16
17 Committee Vice-chair William Russell welcomed everyone to the meeting. Zerina
18 Ocanovic introduced herself to the group as the new Deputy Juvenile Court
19 Administrator. Vice-chair Russell presented the prepared minutes from the
20 December 5, 2025, Committee meeting and asked for comments or corrections. There
21 were no comments from the Committee and no proposed corrections were presented.
22 Elizabeth Ferrin made a motion to approve the minutes. Michelle Jeffs seconded the
23 motion, and it passed unanimously.

24
25 **2. Discussion & Action: Rule 3. Style of pleadings and forms.** (All)

26
27 Rule 3 was posted for public comment on November 20, 2025, and the rule received
28 one comment from Kimberly Heywood, AOC Program Coordinator. Ms. Heywood
29 suggested adding a checkbox system to subparagraph (b)(1) to indicate that a minor
30 may be a person under or over 18 years of age. Mr. Russell and Emeritus Member
31 David Fureigh agreed with the suggestion. Mr. Fureigh, however, suggested a simpler
32 approach than the one recommended. He recommended deleting the current blank
33 space and ending the caption at "minor." The caption in subparagraph (b)(1) was
34 amended to "*State of Utah, in the interest of _____, a minor.*" Mr. Fureigh believes
35 this approach comports with the many definitions of "minor" throughout statute.
36 Moreover, because the current language in subparagraph (b)(1) does not align with
37 statute, Mr. Fureigh argued that the proposed amendment, which does align with
38 statute, may not need a second public comment period. Mr. Russell concurred.

39
40 Thomas Luchs made a motion to present Rule 3 to the Supreme Court for adoption,
41 effective May 1, 2026. Stephen Starr seconded the motion, and it passed unanimously.

42
43 **3. Discussion and Action: Rule 15. Preliminary inquiry; informal adjustment without
44 petition.** (All)

45
46 Rule 15 was posted for public comment on November 20, 2025, and the rule received
47 one comment from past member Chris Yannelli, Deputy County Attorney at the Utah
48 County Attorney's Office. The comment was well received as a friendly jest toward
49 Vice-chair Russell. Mr. Gallardo asked the Committee to consider asking the Supreme
50 Court for adoption of the rule effective immediately. The process that is being
51 proposed in paragraph (d) is currently being practiced by probation officers. Ms.
52 Ocanovic confirmed that the process is already in practice. Vice-chair Russell confirms
53 that the practice described in paragraph (d) matches the current process used by
54 probation officers and his firm, Utah Juvenile Defender Attorneys. Dawn Hautamaki
55 reported that the process has been adopted by probation officers statewide.

57 Judge David Johnson made a motion to present Rule 15 to the Supreme Court for
58 immediate adoption. Ms. Hautamaki seconded the motion, and it passed
59 unanimously.

60

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

62

63 Rule 20A was posted for public comment on November 20, 2025, and the rule received
64 one comment from attorney Jason Richards. From the Office of the Attorney General's
65 perspective, counsel for DCFS, Emeritus Member Alan Sevison advocated for clear
66 procedures that define when an answer to a petition has occurred, because an answer
67 then triggers the initial disclosures. Mr. Sevison suggested that the key issue is
68 whether the court accepts general answers or specific answers to the allegations
69 contained in a petition. Judge Johnson agreed with Mr. Richards's comment and
70 argued that oral answers should be accepted, including general denials of the petition
71 in its entirety.

72

73 Mr. Fureigh explained that the rule addresses two separate issues: (1) initial
74 disclosures, and (2) the discovery process. Although Mr. Fureigh does see defense
75 counsel enter general denials of the petition, his office generally does not object to that
76 practice and will typically provide initial disclosures within the 14-day timeframe
77 required by the rule. Mr. Fureigh does argue that Rule 34 of the Utah Rules of Juvenile
78 Procedure does require an answer to the specific allegations contained in the petition.
79 Furthermore, initial disclosures have been already provided to defense counsel before
80 the discovery process is undertaken. The intent behind the discovery process is to help
81 narrow down discovery to the specifics of the denial, so that the AG's Office
82 understands what needs to be proven at trial and provide the discovery related to the
83 specific allegations denied. Mr. Fureigh then suggested adding the phrase "*pursuant*
84 *to Rule 19*" at the end of each introductory dependent clause in paragraphs (c), (d), (e),
85 and (g), and this change was made to the draft. Mr. Fureigh acknowledged Mr.
86 Richards's concern that there are Assistant AG's who resist providing initial
87 disclosures because a formal written answer was not "filed." To address this
88 confusion, Mr. Fureigh will remind all Assistant AG's that Rule 19 of the Utah Rules
89 of Juvenile Procedure allows for an oral answer.

90

91 Chair Matt Johnson joined the meeting during discussion on Rule 20A and resumed
92 chair responsibilities.

93

94 Janette White made a motion to present Rule 20A to the Supreme Court for adoption,
95 effective May 1, 2026. Mr. Starr seconded the motion, and it passed unanimously. The
96 Committee understands that the Court may prefer to post the rule for a second public
97 comment period due to the additional changes to paragraphs (c), (d), (e), and (g).

99 **5. Discussion and Action: Rule 22. Initial appearance and preliminary hearing in cases**
100 **under Utah Code section 80-6-503 and 80-6-504. (All)**

102 Rule 22 was posted for public comment on November 20, 2025, and no comments
103 were received. Mr. Gallardo asked the Committee for their thoughts on changing the
104 title to the rule. The specific references to statute were deleted, and the title was
105 amended to "*Initial appearance and preliminary hearing in cases under Title 80, Chapter 6,*
106 *Part 5.*"

108 Vice-chair Russell made a motion to present Rule 22 to the Supreme Court for
109 adoption, effective May 1, 2026. Ms. White seconded the motion, and it passed
110 unanimously.

112 **6. Rule 18. Summons; service of process; notice. (Erika Larsen, Dawn Hautamaki)**

114 Rule 18 is back on the agenda for ongoing discussion on changes proposed by Erika
115 Larsen and Ms. Hautamaki to paragraph (d) regarding email notice. Ms. Larsen has
116 been hard at work addressing members' concerns while moving forward with a
117 solution that allows for email notice of further proceedings. Mr. Fureigh has also
118 proposed an alternative solution. The Committee viewed both Ms. Larsen's and Mr.
119 Fureigh's drafts side-by-side.

121 Mr. Fureigh explained that in his proposal, language has been added that places on
122 an unrepresented party the burden to provide current and active mailing address,
123 email address, and phone number to the court. Mr. Fureigh borrowed this language
124 from Rule 76 of the Utah Rules of Civil Procedure. Moreover, Mr. Fureigh added that
125 if the party is represented, the party has the burden to provide to counsel their current
126 and active contact information. This will ensure that the court or, if represented,
127 counsel will be able to provide notice of the hearing, including changes in hearing
128 date and time, to the party. Current Rule 18(d) has been interpreted two ways: either
129 notice must be sent to an unrepresented party or, if represented, to the party through
130 their attorney; or notice must be given to both the party and their attorney. Carolyn
131 Perkins prefers to leave out the proposed language regarding what an unrepresented
132 party must do because there are some parties who are homeless, in jail, or may end
133 up in jail. The parties may not have a way to notify the court of their current address.

135 Mr. Fureigh also expressed concern over allowing a party to choose their preferred
136 method of service, but if the Committee thinks this is appropriate, Mr. Fureigh
137 suggests limiting the methods to the only two options available outside of notice
138 during open court: mail or email. Ms. Hautamaki also shared her concern with this.
139 Currently, CARE does not have the programming to track a party's preferred method
140 of service. Child welfare cases can involve many parties, and keeping track of the
141 parties' preferences may require that judicial assistants spend time searching court

142 orders, especially if a party joins the case or changes their preference at a later date.
143 Tracking a party's preferred method of service will be burdensome on judicial
144 assistants. Mr. Fureigh added that the AG's Office is often responsible for sending
145 notice to parties. Because paragraph (d) establishes the method for legal notice, if a
146 party indicates a preferred method of service but the AG's Office uses a different
147 method, the court may not hold the party accountable when the party does not
148 appear. Despite allowing a party to indicate their preferred method of service, Chair
149 Johnson believes that paragraph (d) does not limit the court or the AG's Office to
150 effectuating notice only by the party's preferred method.

151
152 Ms. Perkins recommended tabling Rule 18 to allow members more time to review and
153 compare and contrast the drafts presented by Ms. Larsen and Mr. Fureigh. Judge
154 Johnson made a motion to table Rule 18. Ms. Perkins seconded the motion, and it
155 passed unanimously. Rule 18 will be discussed at the February 6, 2026 meeting.

156

157 **7. Discussion and Action: Rule 16. Transfer of delinquency case and venue. (All)**

159 Chair Johnson and Vice-chair Russell shared a summary of the Rule 16 Workgroup
160 Meeting that took place on December 30, 2025. The consensus of the majority of
161 workgroup members was that the current rule needs changes. The rule is not practical.
162 The majority of workgroup members agreed that all hearings prior to and including
163 adjudication should be held in the county of occurrence. The case would only be
164 transferred back to the county of residence for disposition and reviews. Judge Leavitt
165 joined the workgroup, and he volunteered to draft a rule that outlines the majority of
166 the members' preferred procedure. In his draft, Judge Leavitt addresses pre-
167 adjudication detention hearings and competency. Vice-chair Russell suggests that the
168 Committee take its time examining Judge Leavitt's proposed draft before taking any
169 action.

170
171 Rule 16 will be discussed at the February 6, 2026 meeting.

172

173 **8. Discussion: New Rule 103 of the Utah Rules of Civil Procedure. (Stacy Haacke)**

175 Stacy Haacke joined the meeting and provided an update on new Civil Rule 103. Ms.
176 Haacke shared that the rule received a slew of comments after going through an initial
177 public comment period. The comments came from the directors of various Children's
178 Justice Centers (CJC) across the state. The directors were concerned about two issues
179 related to the recorded CJC interviews of children. First, they questioned who would
180 need to testify to authenticate the recordings for admission as evidence. Second, they
181 were uncertain whether allowing parties to view the recordings would require
182 releasing copies of the recordings to those parties. Mr. Fureigh recently joined Ms.
183 Haacke at a meeting with prosecutors and the CJC directors to help answer their
184 questions.

185

186 Chair Johnson shared that when he calls witnesses, he calls the interviewer to lay the
187 foundation of the recording. There is also a criminal rule that governs the viewing of
188 CJC recordings.

189

190 Judge Johnson noted that the CJC recording is a protected record, and the court will
191 place protective orders that include the manner in which the recording can be viewed.
192 Mr. Fureigh added that parents are already entitled in statute to make a request to the
193 court to view the CJC recording. The juvenile court is aware of the statutory
194 safeguards when ordering the release of the recorded interview, but the district court
195 may not be aware. Moreover, litigation in district court may not be as efficient as in
196 juvenile court due to the nature of the case types, i.e., child welfare proceedings in
197 juvenile court versus divorce proceedings in district court, which may be more
198 litigious. Directors also expressed concern with the courts releasing the recording
199 while the criminal or DCFS investigation is ongoing. The AG's Office may file an
200 objection to the order releasing the video, but since the AG's Office is not always
201 assigned to these cases in district court, they are not always aware of the order.

202

203 Chair Johnson shared that Jennifer Spangenberg, Guardian ad Litem, may be helpful
204 to this discussion. Ms. Spangenberg handles protective orders heard in district court.
205 Judge Johnson volunteered to work with Ms. Haacke and the civil rules committee to
206 help resolve the concerns. Judge Johnson also shared that GAL Mike McDonald
207 would be a helpful resource. Ms. Haacke shared her appreciation to the Committee,
208 and indicated she would work with Judge Johnson, Judge Jensen, GAL Jennifer
209 Spangenberg, and GAL Mike McDonald to help revise the language in the new rule
210 that addresses the CJC directors' concerns while demonstrating to the Supreme Court
211 that the concerns were properly addressed.

212

213 **9. Rule 20. Discovery. (Judge Johnson)**

214

215 Rule 20 is tabled until the next meeting.

216

217 **10. Discussion and Action: Section VI Proceedings under Utah Code section 80-6-503;**
218 **Rule 21; and Rule 23. (All)**

219

220 These matters are tabled until the next meeting.

221

222

223 The meeting adjourned at 1:58 p.m. The next meeting will be held on February 6, 2026,
224 via Webex.

TAB 2

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

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

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

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

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

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

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

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

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

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

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

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

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

35 **(4) Failure to comply.**

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

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

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

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

53 (c) Experts.

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

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

66

67 Option 3 – Refer to 77-17-13.

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

TAB 3

Rule 21. Warrant of arrest or summons in cases where a minor may be bound over to district court~~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 interestss 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:

TAB 4

1 **Rule 23A. Appointment of counsel.**

2 (a) **Qualification of defense counsel in cases ~~subject to bindover where a minor may~~**
3 **be bound over to district court**~~||~~ In all cases in which counsel is appointed to represent
4 a minor who is charged ~~by information filed in the juvenile court under Utah Code~~
5 ~~section 80-6-503~~with a felony, the court will appoint one or more attorneys to
6 represent the minor and will make a finding on the record that the appointed defense
7 counsel is competent under this rule to litigate the preliminary hearing. To be found
8 competent under this rule~~to represent a minor charged in such a case~~, the ~~experience~~
9 ~~of the~~ appointed attorney(s) must meet the following requirements:

Commented [MF1]: I changed this heading to match the statutory language used in Utah Code 806-6-504.

10 (1) within the last five years, at least one of the appointed attorneys must have
11 completed or taught at least four hours of approved continuing legal education
12 ~~which dealt~~dealing, in substantial part, with the representation of ~~youth~~minors in
13 such proceedings and ~~including~~the principles of adolescent brain development;
14 (2) within the last five years~~||~~ at least one of the appointed attorneys must have
15 appeared as counsel and tried to a judgment after trial, or to a ruling after an
16 evidentiary hearing~~(s)~~|| at least four juvenile or adult prosecutions ~~in the past five~~
17 ~~years~~, with at least one of the four cases as defense counsel ~~or defense co-counsel~~
18 or, ~~have appeared as counsel and tried to judgment after trial, or to ruling after~~
19 ~~evidentiary hearing, within the last 10 years, at least one of the appointed~~
20 ~~attorneys must have appeared as counsel and tried to a judgment after trial, or to~~
21 ~~a ruling after an evidentiary hearing~~|| at least eight juvenile or adult prosecutions
22 ~~in the past 10 years~~, with at least two of the eight cases as defense counsel ~~or~~
23 ~~defense co-counsel~~;

Commented [JP2]: This is odd given that not each must meet the requirements. What if we said here, "To be found competent under this rule, the appointed attorneys, either individually or in combination, must meet the following requirements:?"

24 (3) at least one of the appointed attorneys must have appeared as defense counsel
25 ~~or defense co-counsel~~|| before ~~the~~a juvenile court in a preliminary hearing where
26 the minor ~~was~~ is subject to a bindover to district court, on both the probable cause
27 phase and the retention or ~~+~~ transfer phases of the preliminary hearing. ~~In the~~
28 ~~event that~~ If no attorney with this qualification is available for ~~such~~ appointment,

Commented [MF3]: We moved this clause to match the structure of the preceding paragraph

Commented [JP4]: Maybe this is important, but it seems to me that all defense co-counsel are defense counsel. So I don't know that we need this.

29 one of the appointed attorneys must consult with an attorney on a roster of
30 attorneys maintained by the Utah Indigent Defense Commission who has with
31 such that qualification ~~on a roster of such attorneys maintained by the Utah~~
32 ~~Indigent Defense Commission~~; and

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

35 (b) Factors to consider when appointing counsel~~ment considerations in~~
36 ~~preliminary hearings where the minor is subject to bindover~~. In ~~making its~~
37 ~~selecting~~~~on of~~ attorneys ~~for to~~ appointment under this rule, ~~in a specific transfer case~~,
38 the juvenile court will also consider the following factors:

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

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

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

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

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

54 (6) the extent to which the attorneys ~~under consideration have engaged in the~~
55 ~~actively practiced~~ ~~of~~ juvenile defense in the past two years;

Commented [MF5]: When this comes back to the court: does this list already exist, or is this a new task for the commission to complete? Maybe discuss I any updated memo.

Commented [JP6]: Not sure what that means and how the court would assess it.

Commented [MF7]: This was flagged with a comment—it's not quite clear what is meant by this clause, namely "is a higher standard than the duties owed under the professional conduct rules?" See what you think.

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

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

61 (c) **Appeals of bindover orders.** In all cases where a minor is bound over to the district
62 court, if appellate review of the bindover order is sought, the court will appoint one
63 or more attorneys to represent the minor ~~on such appeal who are currently on from~~
64 the Appellate Roster under Rule 11-401 of the Utah Code of Judicial Administration,
65 unless private counsel is retained.

66 *Effective Date:*

TAB 5

1 **Rule 18. Summons; service of process; notice.**

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

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

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

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

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

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

28 time of the hearing. It must also contain an abbreviated reference to the substance
29 of the petition. In proceedings against an adult pursuant to Utah Code section 78A-
30 6-450, the summons must conform to [Rule 6 of](#) the Utah Rules of Criminal
31 Procedure and be issued by the prosecuting attorney.

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

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

43 (b) **Service.**

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

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

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

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

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

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

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

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

85 (d) **Notice.**

86 (1) Notice of the time, date, and place of any further proceedings, after an initial
87 appearance or service of a summons, may be given orally to the party or the party's
88 counsel in open court or by mailing or emailing a written copy to anythe party. Notice
89 is sufficient if the written notice is~~clerk~~ depositeds~~the~~notice in the United States mail,
90 postage pre-paid, to the address or sent to the email address provided by the party
91 pursuant to this paragraph~~in court or the address at which the party was initially~~
92 ~~served, or, if the party has agreed to accept service by email, sends notice to the email~~
93 ~~address provided by the party.~~

94 (2) An unrepresented party must provide a current and active mailing address, email
95 address, and phone number to the court and parties either in writing or orally on the
96 record for purposes of receiving service of notices under this paragraph.

97 (3) An unrepresented party must promptly notify the court and other parties in
98 writing of any change in the person's address, email address, and phone number for
99 purposes of receiving service of notices under this paragraph.

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

103 (5) A represented party must ensure counsel has their current and active contact
104 information for purposes of receiving service of notices under this paragraph.

105 (e) **Additional parties.** Whenever it appears to the court that a person who is not the
106 parent, guardian, or custodian should be made subject to the jurisdiction and authority
107 of the court in a minor's case, upon the motion of any party or the court's own motion,
108 the court may issue a summons ordering such person to appear. Upon the appearance of
109 such person, the court may enter an order making ~~such~~the person a party to the

110 proceeding and may order ~~such~~the person to comply with reasonable conditions as a part
111 of the disposition in the minor's case. Upon the request of such person, the court will
112 conduct a hearing upon the issue of whether ~~such~~the person should be made a party.

113 **(f) Service of pleadings and other papers.**

114 (1) Except as otherwise provided by these rules or by statute, service of pleadings and
115 other papers not requiring a summons must be made by the methods provided in
116 Rule 5 of Utah Rules of Civil Procedure, except that service to the email address on
117 file with the Utah State Bar is sufficient service to an attorney under this rule, whether
118 or not an attorney agrees to accept service by email.

119 (2) An unrepresented party must provide a current and active mailing address, email
120 address, and phone number to the court and parties in writing or orally on the record
121 for purposes of receiving service of pleadings and other papers under this paragraph.

122 (3) An unrepresented party must promptly notify the court and other parties in
123 writing of any change in the person's address, email address, and phone number for
124 purposes of receiving service of pleadings and other papers under this paragraph.

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

1 **Rule 18. Summons; service of process; notice.**

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

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

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

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

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

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

28 time of the hearing. It must also contain an abbreviated reference to the substance
29 of the petition. In proceedings against an adult pursuant to Utah Code section 78A-
30 6-450, the summons must conform to [Rule 6 of](#) the Utah Rules of Criminal
31 Procedure and be issued by the prosecuting attorney.

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

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

43 (b) **Service.**

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

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

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

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

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

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

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

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

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

86 (1) Notice to a party of the time, date, and place of any further proceedings, after an
87 initial appearance or service of a summons, may be if given in open court ~~or,~~
~~constitutes sufficient notice by mail to any party. Notice is sufficient if the clerk~~
~~deposits 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, if the party has agreed to accept service by email, sends notice to the email address~~
~~provided by the party.~~

93 (2) In the event notice is not given in open court, notice of further proceedings may be
94 sent to any party, by mail or by email, in the method most likely to be promptly
95 received by the party. At an initial hearing when a party first appears, the court may
96 obtain the party's preferred method to receive notice outside of open court.

97 (32) Notice is sufficient if it is deposited in the United States mail, postage pre-paid,
98 to the address provided by the party in court or the address at which the party was
99 initially served or one provided by a party pursuant to subparagraph (d)(2), or if
100 notice is sent to an email address provided by a party pursuant to subparagraph
101 (d)(2).

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

105 (e) **Additional parties.** Whenever it appears to the court that a person who is not the
106 parent, guardian, or custodian should be made subject to the jurisdiction and authority
107 of the court in a minor's case, upon the motion of any party or the court's own motion,
108 the court may issue a summons ordering such person to appear. Upon the appearance of
109 such person, the court may enter an order making such the person a party to the

110 proceeding and may order ~~such~~the person to comply with reasonable conditions as a part
111 of the disposition in the minor's case. Upon the request of such person, the court will
112 conduct a hearing upon the issue of whether ~~such~~the person should be made a party.

113 **(f) Service of pleadings and other papers.** Except as otherwise provided by these rules
114 or by statute, service of pleadings and other papers not requiring a summons must be
115 made by the methods provided in [Rule 5](#) of Utah Rules of Civil Procedure.~~, except that~~
116 ~~service to the email address on file with the Utah State Bar is sufficient service to an~~
117 ~~attorney under this rule, whether or not an attorney agrees to accept service by email.~~

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

TAB 6

1 **Rule 16. ~~Transfer of delinquency case and~~ Venue for delinquency cases.**

2 (a) ~~Transfer of delinquency case~~Venue for preliminary inquiry and nonjudicial
3 adjustment.

4 (1) A preliminary inquiry and any nonjudicial adjustment must be conducted and
5 facilitated by a probation officer in the minor's county of residence.

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

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

15 (b) ~~Arraignment and pretrial~~Venue for court proceedings.

16 (1) Detention hearing.

17 (A) Initial detention hearings and detention review hearings are heard by a court
18 in the minor's county of residence in accordance with Rule 9, including cases
19 where the minor is being held in a detention facility that is outside of the minor's
20 county of residence so long as the court can hear the matter remotely. If a remote
21 hearing is not possible, a court in the county where the minor is being held must
22 hold the detention hearing.

23 (B) Where a petition is filed in the county where the alleged delinquency occurred,
24 the court in the county of occurrence may hold a detention review hearing if held
25 in conjunction with an arraignment or other pretrial hearing after consultation
26 with the court in the minor's county of residence.

27 (2) Upon the filing of a petition, the arraignment and all other hearings prior to and
28 including adjudication~~initial pretrial conference~~ will be held in the ~~minor's~~ county of
29 residence~~occurrence~~. If the petition is ~~resolved~~adjudicated, the matter will be
30 transferred to the~~without a trial, venue will remain in the~~ minor's county of residence
31 for disposition and further handling.

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

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

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

40 (e) **Transfer of venue.**

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

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

46 (3) Motions for inquiry into competency may be raised in and ruled upon by the
47 court where the matter is pending in either court. ~~The court in the county of residence~~
48 and t~~The~~ court in the county of occurrence will~~may~~ determine that it is in the minor's
49 best interest for the court in the minor's county of residence to determine competency
50 and may transfer the case to the county of residence for competency proceedings. If a
51 minor is determined to not be competent but competency may be attained, the matter
52 will be transferred to the court in the minor's county of residence for attainment
53 proceedings and, if competency is attained, transferred back to the county of

54 occurrence for adjudication~~communicate and consult regarding the motion. The~~
55 ~~objective of that communication is to consider the appropriate venue for a~~
56 ~~competency ruling and attainment proceedings.~~

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

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

63 (~~ed~~) **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 does not
65 preclude refiling within the same district or another district where venue is proper.

66 *Effective Date:*

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 where 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 the
6 referral to the minor's county of residence for a preliminary inquiry to be conducted
7 in accordance with [Rule 15](#).

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

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

13 (1) Upon the 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) A Prosecutors in the minor's county of residence must work with the prosecutor
17 and law enforcement agency in the county of occurrence to obtain and ~~and defense~~
18 counsel in both the county of occurrence and the county of residence must cooperate
19 with each other both to ~~to~~ provide discovery to defense counsel in the minor's county
20 of residence, and to assist in the resolution or litigation of each case. Discovery must
21 be provided to defense counsel in the minor's county of residence within the time
22 periods set forth in Rule 16 of the Utah Rules of Criminal Procedure. After discovery
23 is provided to defense counsel, the prosecutor in the minor's county of residence and
24 the prosecutor in the county of occurrence must consult to try to resolve the petition
25 in the minor's county of residence.

26 ***Alternate (b)(2)***:

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

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

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

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

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

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

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

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

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

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

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

65 *Effective Date:*