

## JUDICIAL COUNCIL MEETING

### AGENDA

Friday, August 16, 2013  
Large Conference Room A  
Matheson Courthouse  
Salt Lake City, Utah

*Chief Justice Matthew B. Durrant, Presiding*

1. 12:30 p.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 12:35 p.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 12:45 p.m. Administrator's Report. . . . . Daniel J. Becker
4. 1:00 p.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant  
Liaison Committee. . . . . Justice Jill Parrish  
Policy and Planning . . . . . Judge Greg Orme  
Bar Commission. . . . . John Lund, esq.  
(Tab 2 - Information)
5. 1:10 p.m. Ethics Advisory – Informal Opinion 12-02 – Followup. . . . Brent Johnson  
(Tab 3 - Information)
6. 1:30 p.m. Board of District Court Update. . . . . Judge Scott Hadley  
(Information) Debra Moore
7. 1:50 p.m. Update on Mandatory E-filing of Probate and  
Citation Cases. . . . . Kim Allard  
(Information) Ron Bowmaster
8. 2:10 p.m. Morgan County Petition to End Contract Site. . . . . Judge Brent West  
(Tab 4 - Action) Sylvester Daniels
9. 2:25 p.m. Rules for Final Action. . . . . Tim Shea  
(Tab 5 - Action)
10. 2:35 p.m. Legislative Update and Interim Highlights. . . . . Rick Schwermer  
(Information)
11. 2:45 p.m. Executive Session
12. 3:45 p.m. Adjourn

### **Consent Calendar**

*The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.*

1. Rules for Comment  
(Tab 6)

Tim Shea

**TAB 4**

# MORGAN

August 6, 2013

Judicial Council  
450 South State Street  
Salt Lake City, UT 84114

Dear Judicial Council:

The Morgan County Council hereby request to transfer responsibility for operation of the district court to the state. Morgan County respectfully request an expedited amendment to Rule 4-408.01 removing Morgan as a location which shall be administered through contract with the county government, and asks that this be done as soon as possible.

Morgan County will continue to support a contract agreement with the Administrative Office of the Courts to lease space from Morgan County within the courthouse for court services.

Sincerely,



Tina Kelley  
Morgan County Council Chair

# MORGAN

July 23, 2013

2013 JUL 29 P 3:18  
SECOND DISTRICT COURT

Sylvester Daniels  
2nd District Court  
2525 Grant Ave  
Ogden, Utah 84401

Dear Mr. Daniels:

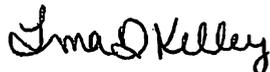
The members of the Morgan County Council met on July 2<sup>nd</sup> to discuss the contract between Morgan County and the Administrative Office of the Courts. A portion of the meeting's discussion centered around the challenge Morgan County faces when dealing with the County's four day work week versus the State's five day work week, more specifically, the fact that Morgan County has been obligated to provide clerical support (one employee) who works alone in a closed building.

A newspaper article was written in our local newspaper this past weekend, making public the fact that we have a female employee who works alone in the building on Friday. The article also quoted a statement made by the Sheriff indicating that he would not provide security to the clerk on Fridays.

The clerk has previously made her feelings regarding her safety and her concern for the lack of security on Friday's known, therefore, putting Morgan County on notice regarding their liability for failing to provide a safe work environment. The newspaper article exasperated the situation by declaring to the public that she is alone in the building on Fridays and that the County is not able to remedy the situation.

The Morgan County Council is respectfully notifying the Second District and the Administrative Office of the Courts that, due to the safety and security issues faced by Morgan County, we will not be able to provide clerical services to courts effective Friday, July 26<sup>th</sup>.

Sincerely,



Tina Kelley  
Morgan County Council Chair

# TAB 5



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

## MEMORANDUM

Daniel J. Becker  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

**To:** Judicial Council  
**From:** Tim Shea *T. Shea*  
**Date:** August 5, 2013  
**Re:** Rules for final action

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The comment period for the following rules has closed, and the Policy and Planning Committee recommends that they be approved.

### Rule summary

CJA 02-0103. Open and closed meetings. Amend. Technical changes. Adopts for the Judicial Council the new requirements of public bodies under SB 77. Effective May 14, 2013 under Rule 2-205. Subject to change after the comment period.

CJA 02-0104. Recording meetings. Amend. Requires additional public records to be published on the Utah Public Notice Website. Adopts for the Judicial Council the new requirements of public bodies under SB 77. Effective May 14, 2013 under Rule 2-205. Subject to change after the comment period.

CJA 03-0414. Court security. Amend. Removes duplicate reference to proselytizing in a courthouse.

CJA 04-0202.02. Records classification. Amend. Classifies the addendum to an appellate brief in a case involving termination of parental rights or adoption as a private record. Establishes the classification of a "safeguarded" record and which records are safeguarded records. Describes when jurors' names are public, private or safeguarded.

CJA 04-0202.03. Records access. Amend. Describes who has access to safeguarded records. Modifies who has access to the juvenile court social file.

CJA 04-0403. Signature stamp use. Amend. Deletes acceptance of pleas in abeyance from the list of documents on which the clerk can sign for the judge with a signature stamp.

CJA 04-0906. Guardian ad litem program. Amend. Implements the requirements of Section 78A-2-228 for private guardian ad litem attorneys. Effective July 1, 2013 under Rule 2-205. Subject to change after the comment period.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

450 South State Street / POB 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3808 / Fax: 801-578-3843 / email: [tims@utcourts.gov](mailto:tims@utcourts.gov)

CJA 06-0401. Domestic relations commissioners. Amend. Includes dating violence protective orders, authorized by HB 50, within the authority of court commissioners. Effective May 14, 2013 under Rule 2-205. Subject to change after the comment period.

### **Comments**

Other than the changes described below, the committee recommends that the rules be approved as they were published for comment.

#### **Rule 4-202.02**

In my previous comment, I should have included protective orders as well.

Posted by Carol Verdoia July 9, 2013 03:41 PM

The provision regarding classification of the addendum in an appellate brief in CJA 04-0202.02 should be broadened. Currently the amendment classifies the addendum to an appellate brief in a case involving termination of parental rights or adoption as a private record. There are numerous other juvenile court child welfare orders that are final and appealable, which are equally confidential, but which are not currently listed. The juvenile court rules (rule 2(a), (c)) and the appellate rules (rule (1)(f)) explicitly recognize the other types of child welfare proceedings, i.e., abuse, neglect, dependency, and substantiation proceedings. The records from all of those proceedings should be confidential (classified as private) for the same reasons applicable to termination of parental rights and adoption cases. If you feel it is too wordy to include all of the proceedings, some of the juvenile rules refer to them as "non-delinquency" cases.

Posted by Carol Verdoia July 9, 2013 03:12 PM

The August 2 draft of the rule includes these further casetypes and dating violence protective orders. (See lines 173-177.) The Policy and Planning Committee has asked the Board of Juvenile Court Judges to discuss whether the additional casetypes are appropriate. The Board's discussion and any recommendations will be reported to the Council.

Rule 4-202.02(5)(P) states that search warrants are protected before the filing of the return. Under URCrP 40, the documents are sealed for the first 20 days after issuance unless there is an order extending the sealing period. The subject of the record is not entitled to access except upon court order so perhaps (5)(P) should be eliminated and instead Rule 40 of the Rules of Criminal Procedure will govern.

E-mail from Brent Johnson

The committee deleted paragraph (5)(P) in response to this comment.

#### **Rule 4-906**

The editors at Lexis-Nexis recommended several grammar and style changes to paragraph (8)(B) which the committee adopted.

**1 Rule 2-103. Open and closed meetings.**

**2 Intent:**

**3 To establish the Council's responsibility for providing public notice of its meetings  
4 and to ensure the opportunity for public attendance at Council meetings.**

**5 To establish procedures consistent with the philosophy of the Utah Open and Public  
6 Meetings Act.**

**7 To provide the Council with sufficient flexibility to close meetings when discussing  
8 matters of a sensitive nature.**

**9 Applicability:**

**10 This rule shall apply to all meetings of the Council.**

**11 Statement of the Rule:**

**12 (1) Definitions. As used in this rule "meeting" means the gathering of a quorum of the  
13 Council, whether in person or by means of electronic communication, for the purpose of  
14 discussing or acting upon any matter over which the Council has jurisdiction, but does  
15 not include a chance or social meeting of Council members.**

**16 (2) Public notice of meetings.**

**17 (2)(A) After the Council has set its annual meeting schedule, the administrative office  
18 of the courts shall publish on the court's website and on the Utah Public Notice Website  
19 the date, time and place of the meetings ~~on the courts' website~~. At least 24 hours before  
20 each meeting, the administrative office of the courts shall post on the websites the  
21 meeting agenda and notify at least one newspaper of general circulation within the state  
22 of the postings. The administrative office of the courts shall notify a media agency of the  
23 postings by email upon request for routine notice. The Council may address a matter  
24 not on the meeting agenda but will take no final action on the matter.**

**25 (2)(B) When, due to unforeseen circumstances, it is necessary for the Council to  
26 consider matters of an urgent nature, the requirement of public notice may be  
27 suspended and the best notice practicable given. No such meeting of the Council shall  
28 be held unless:**

**29 (2)(B)(i) an attempt has been made to notify all members;**

**30 (2)(B)(ii) at least a quorum is present; and**

**Rule 2-103.**

**Effective May 14, 2013 under Rule 2-205.  
Subject to change after the comment period**

31 (2)(B)(iii) a majority of those present vote to hold the meeting.

32 (3) Open meetings. Meetings of the Council are open to the public unless closed as  
33 provided in this rule.

34 (4) Reasons for closed meetings.

35 A closed meeting of the Council may be held for discussions regarding any of the  
36 following:

37 (4)(A) the character, professional competence, or physical or mental health of an  
38 individual;

39 (4)(B) collective bargaining or litigation;

40 (4)(C) the purchase, exchange or lease of real property if public discussion of the  
41 transaction would disclose the appraisal or estimated value of the property under  
42 consideration or prevent the Council from completing the transaction on the best  
43 possible terms;

44 (4)(D) the sale of real property if:

45 (4)(D)(i) public discussion of the transaction would disclose the appraisal or  
46 estimated value of the property under consideration or prevent the Council from  
47 completing the transaction on the best possible terms;

48 (4)(D)(ii) the Council has previously given public notice that the property would be  
49 offered for sale; and

50 (4)(D)(iii) the terms of the sale are publicly disclosed before the Council approves  
51 the sale;

52 (4)(E) deployment of security personnel or devices;

53 (4)(F) allegations of criminal misconduct; or

54 (4)(G) consideration of a private, protected, sealed, juvenile court social or juvenile  
55 court legal record as defined in Rule 4-202.02.

56 (5) Procedure for closing a meeting.

57 (5)(A) A closed meeting may be held only upon the affirmative vote of two-thirds of  
58 the members present at an open meeting for which public notice is given, provided a  
59 quorum is present.

60 (5)(B) The recording and minutes otherwise required by Rule 2-104 shall not be  
61 made if a meeting is closed to discuss the character, competence, or physical or mental  
62 health of an individual or to discuss the deployment of security personnel or devices.  
63 The presiding officer shall sign a sworn statement, which is a public record, affirming  
64 that the sole purpose for closing the meeting is to discuss the character, competence, or  
65 physical or mental health of an individual or the deployment of security personnel,  
66 devices, or systems.

67 (6) Limit on actions at a closed meeting. No contract, appointment, rule or resolution  
68 may be approved at a closed meeting. A contract, appointment, rule or resolution  
69 approved at an open meeting may be based upon discussions had at a closed meeting.

70 (7) Limit on discussions outside of closed meeting. No one who attends a closed  
71 meeting may disclose information discussed or materials distributed outside of the  
72 closed meeting except with

73 (A) others who participated in the closed meeting, and

74 (B) a member of the Judicial Council.

75 (8) Right of removal. All or any part of an open meeting may be recorded by any  
76 person in attendance, provided the recording does not interfere with the conduct of the  
77 meeting. The Council may order the removal of any person who disrupts a meeting.

78 (9) The administrative office of the courts shall annually train the members of the  
79 Council on the requirements of this rule and of Rule 2-104.

80

**1 Rule 2-104. Recording meetings.**

**2 Intent:**

**3 To provide a formal method for memorializing Council meetings.**

**4 To regulate public access to such records.**

**5 Applicability:**

**6 This rule shall apply to all meetings of the Council.**

**7 Statement of the Rule:**

**8 (1) Except as provided in Rule 2-103(5)(B), the administrative office of the courts**  
**9 shall make an audio recording of all open and closed Council meetings, and the**  
**10 administrative office of the courts shall prepare minutes of all open Council meetings.**  
**11 The recording is a verbatim record of what is said during the meeting. The minutes shall**  
**12 include:**

**13 (1)(A) the date, time, and place of the meeting;**

**14 (1)(B) the names of members present, in person or by electronic communication, the**  
**15 names of members absent and the names of staff and guests who testify to the Council;**

**16 (1)(C) the substance of all matters proposed, discussed, or decided;**

**17 (1)(D) the substance of the testimony of guests and the reports of staff or a summary**  
**18 reference to such testimony or report if a copy thereof is filed with the minutes;**

**19 (1)(E) a record of the vote taken on any question, and, if the vote is a roll call vote, a**  
**20 record of the vote of individual members by name;**

**21 (1)(F) the reason for holding a closed meeting; and**

**22 (1)(G) any other information that any member requests be entered in the minutes.**

**23 (2)(A) The audio recording of a closed meeting is a protected record. The audio**  
**24 recording of an open meeting is a public record. Minutes of an open meeting awaiting**  
**25 approval by the Council are a public record. The approved minutes of an open meeting**  
**26 are a public record.**

**27 (2)(B) ~~The recording of an open meeting shall be available within three days after~~**  
**28 ~~the meeting to which it pertains.~~ Minutes awaiting approval by the Council shall be**  
**29 clearly identified as “unapproved” and made available within a reasonable time 30 days**  
**30 after the meeting to which they pertain. ~~After approval by the Council, the minutes shall~~**

31 ~~be posted on the courts' website.~~ The approved minutes of an open meeting are a  
32 permanent record. The audio recording of a public meeting may be destroyed 90 days  
33 after the Council approves the minutes. The audio recording of a closed meeting may  
34 be destroyed 90 days after the matter to which it pertains is moot.

35 (3) The administrative office of the courts shall post on the Utah Public Notice  
36 Website:

37 (3)(A) the audio recording of a public meeting within three days after the meeting;

38 (3)(B) public records distributed at a public meeting, including public records  
39 distributed to Council members before the meeting, within three days after the meeting;

40 and

41 (3)(C) the approved minutes of a meeting within three days after approval.

42

**1 Rule 3-414. Court security.**

**2 Intent:**

**3 To promote the safety and well being of judicial personnel, members of the bar and  
4 citizens utilizing the courts.**

**5 To establish uniform policies for court security consistent with Section 78A-2-203.**

**6 To delineate responsibility for security measures by the Council, the administrative  
7 office, local judges, court executives, and law enforcement agencies.**

**8 Applicability:**

**9 This rule shall apply to all courts.**

**10 Section (7) on weapons shall not apply to trial exhibits.**

**11 Statement of the Rule:**

**12 (1) Definitions.**

**13 (1)(A) Court security. Court security includes the procedures, technology, and  
14 architectural features needed to ensure the safety and protection of individuals within  
15 the courthouse and the integrity of the judicial process. Court security is the joint effort  
16 of law enforcement and the judiciary to prevent or control such problems as, disorderly  
17 conduct, physical violence,, theft, bomb threats, , prisoner escapes, , assassinations,  
18 and hostage situations.**

**19 (1)(B) A key manager is a person authorized by the court executive or Deputy State  
20 Court Administrator to issue, retrieve, activate, and deactivate keys and/or access cards  
21 to courthouses in their districts.**

**22 (1)(C) Presiding judge. As used in this rule, presiding judge includes the judge of a  
23 single-judge courthouse. The presiding judge may delegate the responsibilities of this  
24 rule to another judge.**

**25 (2) Responsibilities of the Council.**

**26 (2)(A) The Council shall ensure that all design plans for renovation or new  
27 construction of court facilities are reviewed for compliance with The Utah Judicial  
28 System Design Standards.**

**29 (2)(B) As a condition for the certification of a new justice court or the continued  
30 certification of an existing justice court, the justice court shall file an acceptable local**

31 security plan with the Court Security Director and shall file amendments to the plan with  
32 the Court Security Director as amendments are made. The local security plan shall  
33 provide for the presence of a law enforcement officer or constable in court during court  
34 sessions or a reasonable response time by the local law enforcement agency upon call  
35 of the court.

36 (3) Responsibilities of the Administrative Office.

37 (3)(A) The state court administrator shall appoint a Court Security Director who shall:

38 (3)(A)(i) review and keep on file copies of all local security plans; and

39 (3)(A)(ii) periodically visit the various court jurisdictions to offer assistance in the  
40 development or implementation of local security plans.

41 (3)(B) The state court administrator shall appoint a court executive in each judicial  
42 district to serve as a local security coordinator.

43

44 (3)(C) The Court Security Director shall promulgate general security guidelines to  
45 assist local jurisdictions in the development of court security plans.

46 (4) Responsibilities of the court executive.

47 (4)(A) The court executive designated as the local security coordinator shall:

48 (4)(A)(i) in consultation with the law enforcement administrator responsible for  
49 security and with the judges responsible for the security plan, develop and implement a  
50 local security plan for each court of record facility within the district;

51 (4)(A)(ii) annually review the local security plan with the presiding judge and the law  
52 enforcement administrator to identify deficiencies in the plan and problems with  
53 implementation;

54 (4)(A)(iii) file an acceptable local security plan with the Court Security Director; and

55 (4)(A)(iv) file amendments to the plan with the Court Security Director as  
56 amendments are made.

57 (4)(B) The local security plan for a courthouse and any amendments to it shall be  
58 approved by a majority of the judges of the district of any court level regularly occupying  
59 the courthouse. Voting shall be without regard to court level. As used in this subsection  
60 the term "judges of the district of any court level occupying the courthouse" shall include

61 all judges of the district court of the district and all judges of the juvenile court of the  
62 district regardless of whether a particular judge occupies the courthouse so long as at  
63 least one judge of that court level occupies the courthouse. The term also includes the  
64 justices of the Supreme Court, the judges of the Court of Appeals and all justice court  
65 judges who actually occupy the courthouse.

66 (4)(C) The court executive shall provide a copy of the current local security plan and  
67 annual training on the plan to all court personnel, volunteers and security personnel.

68 (4)(D) The local plan shall clearly delineate the responsibilities between court  
69 personnel and law enforcement personnel for all areas and activities in and about the  
70 courthouse.

71 (4)(E) The court clerk or probation officer, under the supervision of the court  
72 executive, shall provide timely notice to transportation officers of required court  
73 appearances and cancellation of appearances for individuals in custody. The court shall  
74 consolidate scheduled appearances whenever practicable and otherwise cooperate with  
75 transportation officers to avoid unnecessary court appearances.

76 (4)(F) To the extent possible, the clerk of the court shall establish certain days of the  
77 week and times of day for court appearances of persons in custody in order to permit  
78 transportation officers reasonable preparation and planning time. The court shall give  
79 priority to cases in which a person in custody appears in order to prevent increased  
80 security risks resulting from lengthy waiting periods.

81 (5) Responsibilities of law enforcement agencies.

82 (5)(A) The law enforcement agency with responsibility for security of the courthouse,  
83 through a law enforcement administrator, shall:

84 (5)(A)(i) coordinate all law enforcement activities within the courthouse necessary for  
85 implementation of the security plan and for response to emergencies;

86 (5)(A)(ii) cooperate with the court executive in the development and implementation  
87 of a local security plan;

88 (5)(A)(iii) provide local law enforcement personnel with training as provided in this  
89 rule;

90 (5)(A)(iv) provide court bailiffs; and

91 (5)(A)(v) provide building and perimeter security.

92 (5)(B) The law enforcement agency responsible for court security shall be as follows:

93 (5)(B)(i) The Department of Public Safety for the Supreme Court and the Court of  
94 Appeals when they are in session in Salt Lake County. When convening outside of Salt  
95 Lake County, security shall be provided by the county sheriff. The Department of Public  
96 Safety may call upon the Salt Lake County Sheriff for additional assistance as  
97 necessary when the appellate courts are convening in Salt Lake County.

98 (5)(B)(ii) The county sheriff for district courts and juvenile courts within the county.

99 (5)(B)(iii) The county sheriff for a county justice court and the municipal police for a  
100 municipal justice court. The county or municipality may provide a constable to provide  
101 security services to the justice court. If a municipality has no police department or  
102 constable, then the law enforcement agency with which the municipality contracts shall  
103 provide security services to the justice court.

104 (6) Court bailiffs.

105 (6)(A) Qualifications. Bailiffs shall be "law enforcement officers" as defined in Section  
106 53-13-103. At the discretion of the law enforcement administrator and with the consent  
107 of the presiding judge, bailiffs may be "special function officers" as defined by Section  
108 53-13-105.

109 (6)(B) Training. Prior to exercising the authority of their office, bailiffs shall  
110 satisfactorily complete the basic course at a certified peace officer training academy or  
111 pass a waiver examination and be certified. Bailiffs shall complete 40 hours of annual  
112 training as established by the Division of Peace Officer Standards and Training. Bailiffs  
113 shall receive annual training on the elements of the court security plan, emergency  
114 medical assistance and the use of firearms.

115 (6)(C) Physical and mental condition. Court bailiffs shall be of suitable physical and  
116 mental condition to ensure that they are capable of providing a high level of security for  
117 the court and to ensure the safety and welfare of individuals participating in court  
118 proceedings. Bailiffs shall be capable of responding appropriately to any potential or  
119 actual breach of security.

120 (6)(D) Appointment. The appointment of a bailiff is subject to the concurrence of the  
121 presiding judge.

122 (6)(E) Supervision. The court bailiff shall be supervised by the appointing authority  
123 and perform duties in compliance with directives of the appointing authority.

124 (6)(F) Responsibilities. Court bailiff responsibilities shall include but are not limited to  
125 the following.

126 (6)(F)(i) The bailiff shall prevent persons in custody from having physical contact with  
127 anyone other than the members of the defense counsel's team. Visitation shall be in  
128 accordance with jail and prison policies and be restricted to those facilities.

129 (6)(F)(ii) The bailiff shall observe all persons entering the courtroom, their movement  
130 and their activities. The bailiff shall control access to the bench and other restricted  
131 areas.

132 (6)(F)(iii) The bailiff shall search the interior of the courtroom and restricted areas  
133 prior to the arrival of any other court participants. Similar searches shall be conducted  
134 following recesses to ensure the room is clear of weapons, explosives, or contraband.

135 (6)(F)(iv) Bailiffs shall wear the official uniform of the law enforcement agency by  
136 whom they are employed.

137 (6)(F)(v) Bailiffs shall comply with the directives of the judge or commissioner with  
138 respect to security related activities and shall perform other duties incidental to the  
139 efficient functioning of the court which do not detract from security functions. Activities  
140 wholly unrelated to security or function of the court, including personal errands, shall not  
141 be requested nor performed.

142 (6)(F)(vi) Bailiffs shall perform responsibilities provided for in the local court security  
143 plan.

144 (6)(F)(vii) The bailiff shall maintain a clear line of sight of all courtroom participants  
145 and shall be between individuals who are in custody and courtroom exits.

146 (7) Weapons.

147 (7)(A) Weapons generally.

148 (7)(A)(i) A courthouse is presumed to be free of all weapons and firearms unless a  
149 local security plan provides otherwise in accordance with this rule. No person may

150 possess an explosive device in a courthouse. Except as permitted by this rule, no  
151 person may possess a firearm, ammunition, or dangerous weapon in a courthouse.

152 (7)(A)(ii) All firearms permitted under this rule and a local security plan:

153 (7)(A)(ii)(a) and carried upon the person shall be concealed unless worn as part of a  
154 public law enforcement agency uniform;

155 (7)(A)(ii)(b) shall remain in the physical possession of the person authorized to  
156 possess it and shall not be placed in a drawer, cabinet, briefcase or purse unless the  
157 person has physical possession of the briefcase or purse or immediate control of the  
158 drawer or cabinet or the drawer or cabinet is locked; and

159 (7)(A)(ii)(c) shall be secured in a holster with a restraining device.

160 (7)(B) Persons authorized to possess a firearm or other weapon.

161 (7)(B)(i) The following officers may possess a firearm and ammunition in a  
162 courthouse if the firearm is issued by or approved by the officer's appointing authority, if  
163 possession is required or permitted by the officer's appointing authority and the local  
164 security plan, and if the officer presents valid picture identification:

165 (7)(B)(i)(a) "law enforcement officer" as defined in Section 53-13-103;

166 (7)(B)(i)(b) "correctional officer" as defined in Section 53-13-104;

167 (7)(B)(i)(c) "special function officer" as defined in Section 53-13-105;

168 (7)(B)(i)(d) "federal officer" as defined in Section 53-13-106; and

169 (7)(B)(i)(e) a private security officer, licensed under Utah Code Title 58, Chapter 63,  
170 Security Personnel Licensing Act, hired by the court or the court's banker to transport  
171 money.

172 (7)(B)(ii) A judge or law enforcement official as defined in Section 53-5-711 may  
173 possess in a courthouse a firearm and ammunition for which the judge or law  
174 enforcement official has a valid certificate of qualification issued under Section 53-5-711  
175 if possession is permitted by the local security plan.

176 (7)(B)(iii) A court commissioner may possess in a courthouse a firearm and  
177 ammunition for which the court commissioner has a concealed weapons permit, but  
178 only if the court commissioner has obtained the training and annual retraining necessary

179 to qualify for a certificate issued under Section 53-5-711 and if possession is permitted  
180 by the local security plan.

181 (7)(B)(iv) A person permitted under subsections (i), (ii) or (iii) to possess a firearm  
182 nevertheless shall not possess a firearm in a courthouse if the person is appearing at  
183 the courthouse as a party to litigation. A person possessing a firearm in a courtroom  
184 shall notify the bailiff or the judge.

185 (7)(B)(v) If permitted by the local security plan, court personnel and volunteers may  
186 possess in a courthouse an otherwise legal personal protection device other than a  
187 firearm. Court personnel and volunteers shall not possess a personal protection device  
188 while appearing as a party to litigation. Court personnel and volunteers shall not  
189 possess a firearm while on duty.

190 (7)(C) Firearm training requirements.

191 (7)(C)(i) To requalify for a certificate issued under Section 53-5-711 a judge shall  
192 annually complete with a passing score a range qualification course for judges and law  
193 enforcement officials established by the Department of Public Safety or a course  
194 established by any law enforcement agency of the state of Utah or its political  
195 subdivision for the requalification of its officers.

196 (7)(C)(ii) The cost of firearms, ammunition, initial qualification, requalification and any  
197 other equipment, supplies or fees associated with a certificate of qualification issued  
198 under Section 53-5-711 shall be the responsibility of the judge or court commissioner  
199 and shall not be paid from state funds.

200 (8) Security devices and procedures.

201 (8)(A) Metal detectors. The use of metal detectors or other screening devices,  
202 Where present, shall be used by the law enforcement agency responsible for  
203 security/bailiff services. (8)(B) Physical search. Searches of persons in or about the  
204 courthouse or courtroom shall be conducted at the discretion of the law enforcement  
205 agency responsible for security when the local law enforcement agency has reason to  
206 believe that the person to be searched is carrying a weapon or contraband into or out of  
207 the courthouse or when the court so orders. No other person is authorized to conduct

208 such searches. Written notice of this policy shall be posted in a conspicuous place at  
209 the entrance to all court facilities.

210 (8)(C) All persons in custody shall be kept in a holding cell, restrained by restraining  
211 devices, or supervised at all times while in court unless otherwise specifically ordered  
212 by the judge in whose courtroom the individual appears.

213 (8)(D) Extra security. In anticipated high risk situations or a highly publicized case,  
214 the law enforcement agency responsible for security should, on its own initiative or in  
215 response to an order of the court, provide extra security including additional personnel,  
216 controlled access, etc. A written operational plan outlining and assigning security duties  
217 should be developed in conjunction with the presiding judge, the court executive and the  
218 Court Security Director.

219 (8)(E) Courthouse Access Control. Only judges, court staff, and security and  
220 maintenance staff assigned to the courthouse will be granted access card/keys and only  
221 to those areas of the courthouse to which the individual needs access. No access cards  
222 or keys shall be issued solely for convenience purposes. Any exceptions to this rule  
223 must be pre-approved, in writing, by the Deputy State Court Administrator.

224 (8)(E)(i) Access cards or keys will be issued by a key manager only with the prior  
225 written authorization of the court executive(s) or Deputy State Court Administrator.  
226 Detailed recording of all card/key transactions will be the responsibility of the key  
227 manager. Supervisors shall recover all issued keys/cards from court personnel who are  
228 terminated, suspended or transferred or if loss of privileges is part of an adverse  
229 personnel action. Supervisors will return the cards/keys to the court executive who will  
230 deactivate the access card. If the access card is not returned as required, the  
231 supervisor will immediately contact the key manager to deactivate the card.

232 (8)(E)(ii) Court personnel shall possess their court-issued identification at all times  
233 when in the courthouse or staff parking area. Court personnel may not loan their  
234 identification cards, access cards or keys to others and must report any lost or missing  
235 identification or access card key to the key manager or their direct supervisor as soon  
236 as possible after the loss is discovered. Any lost access card will be deactivated before  
237 a replacement card is issued.

238 (8)(E)(iii) Court personnel with a court-issued identification card may bypass security  
239 screening only when they are assigned to that particular courthouse. Court personnel  
240 from other courthouses will be required to successfully pass through the security  
241 screening area before being allowed entry.

242 (8)(E)(iv) The court executive will undertake a semiannual review of access card  
243 records to ensure that no unauthorized use is occurring.

244 (8)(F) In order to protect the safety and welfare of court customers, no one is  
245 permitted to block the entry or exit of a courthouse and no one is permitted to picket,  
246 parade, proselytize, demonstrate or distribute leaflets, pamphlets, brochures or other  
247 materials ~~for the purpose of proselytizing~~ inside a courthouse.

248 (9) Transportation of persons in custody.

249 (9)(A) The federal, state, county or municipal agency with physical custody of a  
250 person whose appearance in court is required is responsible for transportation of that  
251 person to and from the courtroom.

252 (9)(B) The transportation officer shall:

253 (9)(B)(i) remain present at all times during court appearances;

254 (9)(B)(ii) be responsible for the custody of such persons;

255 (9)(B)(iii) support the court bailiff in the preservation of peace in the courthouse and  
256 courtroom;

257 (9)(B)(iv) provide advance notice of the transportation and of any extraordinary  
258 security requirements to the law enforcement agency responsible for court security, to  
259 the judge, and to the bailiff;

260 (9)(B)(v) comply with any regulations of the county sheriff regarding the  
261 transportation of persons in custody to court; and

262 (9)(B)(vi) return the person in custody to the proper place of confinement.

263 (9)(C) The law enforcement agency responsible for court security shall provide  
264 assistance to the transportation officer as circumstances dictate.

265

**1 Rule 4-202.02. Records classification.**

**2 Intent:**

**3 To classify court records as public or non-public.**

**4 Applicability:**

**5 This rule applies to the judicial branch.**

**6 Statement of the Rule:**

**7 (1) Court records are public unless otherwise classified by this rule.**

**8 (2) Public court records include but are not limited to:**

**9 (2)(A) abstract of a citation that redacts all non-public information;**

**10 (2)(B) aggregate records without non-public information and without personal  
11 identifying information;**

**12 (2)(C) arrest warrants, but a court may restrict access before service;**

**13 (2)(D) audit reports;**

**14 (2)(E) case files;**

**15 (2)(F) committee reports after release by the Judicial Council or the court that  
16 requested the study;**

**17 (2)(G) contracts entered into by the judicial branch and records of compliance with  
18 the terms of a contract;**

**19 (2)(H) drafts that were never finalized but were relied upon in carrying out an action  
20 or policy;**

**21 (2)(I) exhibits, but the judge may regulate or deny access to ensure the integrity of  
22 the exhibit, a fair trial or interests favoring closure;**

**23 (2)(J) financial records;**

**24 (2)(K) indexes approved by the Management Committee of the Judicial Council,  
25 including the following, in courts other than the juvenile court; an index may contain any  
26 other index information:**

**27 (2)(K)(i) amount in controversy;**

**28 (2)(K)(ii) attorney name;**

**29 (2)(K)(iii) case number;**

**30 (2)(K)(iv) case status;**

- 31 (2)(K)(v) civil case type or criminal violation;
- 32 (2)(K)(vi) civil judgment or criminal disposition;
- 33 (2)(K)(vii) daily calendar;
- 34 (2)(K)(viii) file date;
- 35 (2)(K)(ix) party name;
- 36 (2)(L) name, business address, business telephone number, and business email
- 37 address of an adult person or business entity other than a party or a victim or witness of
- 38 a crime, but the name of a juror or prospective juror is private until released by the
- 39 judge;
- 40 (2)(M) name, address, telephone number, email address, date of birth, and last four
- 41 digits of the following: driver's license number; social security number; or account
- 42 number of a party;
- 43 (2)(N) name, business address, business telephone number, and business email
- 44 address of a lawyer appearing in a case;
- 45 (2)(O) name, business address, business telephone number, and business email
- 46 address of court personnel other than judges;
- 47 (2)(P) name, business address, and business telephone number of judges;
- 48 (2)(Q) name, gender, gross salary and benefits, job title and description, number of
- 49 hours worked per pay period, dates of employment, and relevant qualifications of a
- 50 current or former court personnel;
- 51 (2)(R) unless classified by the judge as private or safeguarded to protect the
- 52 personal safety of the juror or the juror's family, the name of a juror empaneled to try a
- 53 case, but only 10 days after the jury is discharged;
- 54 (2)(R) opinions, including concurring and dissenting opinions, and orders entered in
- 55 open hearings;
- 56 (2)(S) order or decision classifying a record as not public;
- 57 (2)(T) private record if the subject of the record has given written permission to make
- 58 the record public;
- 59 (2)(U) probation progress/violation reports;
- 60 (2)(V) publications of the administrative office of the courts;

61 (2)(W) record in which the judicial branch determines or states an opinion on the  
62 rights of the state, a political subdivision, the public, or a person;

63 (2)(X) record of the receipt or expenditure of public funds;

64 (2)(Y) record or minutes of an open meeting or hearing and the transcript of them;

65 (2)(Z) record of formal discipline of current or former court personnel or of a person  
66 regulated by the judicial branch if the disciplinary action has been completed, and all  
67 time periods for administrative appeal have expired, and the disciplinary action was  
68 sustained;

69 (2)(AA) record of a request for a record;

70 (2)(BB) reports used by the judiciary if all of the data in the report is public or the  
71 Judicial Council designates the report as a public record;

72 (2)(CC) rules of the Supreme Court and Judicial Council;

73 (2)(DD) search warrants, the application and all affidavits or other recorded  
74 testimony on which a warrant is based are public after they are unsealed under Utah  
75 Rule of Criminal Procedure 40;

76 (2)(EE) statistical data derived from public and non-public records but that disclose  
77 only public data;

78 (2)(FF) Notwithstanding subsections (6) and (7), if a petition, indictment, or  
79 information is filed charging a person 14 years of age or older with a felony or an  
80 offense that would be a felony if committed by an adult, the petition, indictment or  
81 information, the adjudication order, the disposition order, and the delinquency history  
82 summary of the person are public records. The delinquency history summary shall  
83 contain the name of the person, a listing of the offenses for which the person was  
84 adjudged to be within the jurisdiction of the juvenile court, and the disposition of the  
85 court in each of those offenses.

86 (3) The following court records are sealed:

87 (3)(A) records in the following actions:

88 (3)(A)(i) Title 78B, Chapter 6, Part 1, Utah Adoption Act six months after the  
89 conclusion of proceedings, which are private until sealed;

- 90 (3)(A)(ii) Title 78B, Chapter 15, Part 8, Gestational Agreement, six months after the  
91 conclusion of proceedings, which are private until sealed; and
- 92 (3)(B) expunged records;
- 93 (3)(C) orders authorizing installation of pen register or trap and trace device under  
94 Utah Code Section 77-23a-15;
- 95 (3)(D) records showing the identity of a confidential informant;
- 96 (3)(E) records relating to the possession of a financial institution by the  
97 commissioner of financial institutions under Utah Code Section 7-2-6;
- 98 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- 99 (3)(G) records designated as sealed by rule of the Supreme Court;
- 100 (3)(H) record of a Children's Justice Center investigative interview after the  
101 conclusion of any legal proceedings; and
- 102 (3)(I) other records as ordered by the court under Rule 4-202.04.
- 103 (4) The following court records are private:
- 104 (4)(A) records in the following actions:
- 105 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;
- 106 (4)(A)(ii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;  
107 and
- 108 (4)(A)(iii) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are  
109 sealed; and
- 110 (4)(B) records in the following actions, except that the case history; judgments,  
111 orders and decrees; letters of appointment; and the record of public hearings are public  
112 records:
- 113 (4)(B)(i) Title 30, Husband and Wife, except that an action for consortium due to  
114 personal injury under Section 30-2-11 is public;
- 115 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- 116 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their  
117 Property;
- 118 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- 119 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;

- 120 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and  
121 Enforcement Act;
- 122 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
- 123 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
- 124 (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this  
125 subparagraph (B);
- 126 (4)(C) aggregate records other than public aggregate records under subsection (2);
- 127 (4)(D) alternative dispute resolution records;
- 128 (4)(E) applications for accommodation under the Americans with Disabilities Act;
- 129 (4)(F) citation, but an abstract of a citation that redacts all non-public information is  
130 public;
- 131 (4)(G) judgment information statement;
- 132 (4)(H) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- 133 (4)(I) the following personal identifying information about a party: driver's license  
134 number, social security number, account description and number, password,  
135 identification number, maiden name and mother's maiden name, and similar personal  
136 identifying information;
- 137 (4)(J) the following personal identifying information about a person other than a party  
138 or a victim or witness of a crime: residential address, personal email address, personal  
139 telephone number; date of birth, driver's license number, social security number,  
140 account description and number, password, identification number, maiden name,  
141 mother's maiden name, and similar personal identifying information;
- 142 (4)(K) medical, psychiatric, or psychological records;
- 143 (4)(L) name of a minor, except that the name of a minor party is public in the  
144 following district and justice court proceedings:
- 145 (4)(L)(i) name change of a minor;
- 146 (4)(L)(ii) guardianship or conservatorship for a minor;
- 147 (4)(L)(iii) felony, misdemeanor or infraction;
- 148 (4)(L)(iv) child protective orders; and
- 149 (4)(L)(v) custody orders and decrees;

- 150 (4)(M) personnel file of a current or former court personnel or applicant for  
151 employment;
- 152 (4)(N) photograph, film or video of a crime victim;
- 153 (4)(O) record of a court hearing closed to the public or of a child's testimony taken  
154 under URCrP 15.5:
- 155 (4)(O)(i) permanently if the hearing is not traditionally open to the public and public  
156 access does not play a significant positive role in the process; or
- 157 (4)(O)(ii) if the hearing is traditionally open to the public, until the judge determines it  
158 is possible to release the record without prejudice to the interests that justified the  
159 closure;
- 160 (4)(P) record submitted by a senior judge or court commissioner regarding  
161 performance evaluation and certification;
- 162 (4)(Q) record submitted for in camera review until its public availability is determined;
- 163 (4)(R) reports of investigations by Child Protective Services;
- 164 (4)(S) victim impact statements;
- 165 (4)(T) name of a prospective juror summoned to attend court, unless classified by  
166 the judge as safeguarded to protect the personal safety of the prospective juror or the  
167 prospective juror's family;
- 168 (4)(U) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate  
169 Procedure, except briefs filed pursuant to court order;
- 170 (4)(V) records in a proceeding under Rule 60 of the Utah Rules of Appellate  
171 Procedure;
- 172 (4)(W) an addendum to an appellate brief filed in a case involving:
- 173 (4)(W)(i) adoption;
- 174 (4)(W)(ii) termination of parental rights;
- 175 (4)(W)(iii) abuse, neglect and dependency;
- 176 (4)(W)(iv) substantiation under Section 78A-6-323; or
- 177 (4)(W)(v) protective orders or dating violence protective orders;
- 178 ~~(4)(T)~~ ~~(4)(X)~~ other records as ordered by the court under Rule 4-202.04.
- 179 (5) The following court records are protected:

180 (5)(A) attorney's work product, including the mental impressions or legal theories of  
181 an attorney or other representative of the courts concerning litigation, privileged  
182 communication between the courts and an attorney representing, retained, or employed  
183 by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-  
184 judicial, or administrative proceeding;

185 (5)(B) records that are subject to the attorney client privilege;

186 (5)(C) bids or proposals until the deadline for submitting them has closed;

187 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation  
188 before issuance of the final recommendations in these areas;

189 (5)(E) budget recommendations, legislative proposals, and policy statements, that if  
190 disclosed would reveal the court's contemplated policies or contemplated courses of  
191 action;

192 (5)(F) court security plans;

193 (5)(G) investigation and analysis of loss covered by the risk management fund;

194 (5)(H) memorandum prepared by staff for a member of any body charged by law  
195 with performing a judicial function and used in the decision-making process;

196 (5)(I) confidential business records under Utah Code Section 63G-2-309;

197 (5)(J) record created or maintained for civil, criminal, or administrative enforcement  
198 purposes, audit or discipline purposes, or licensing, certification or registration  
199 purposes, if the record reasonably could be expected to:

200 (5)(J)(i) interfere with an investigation;

201 (5)(J)(ii) interfere with a fair hearing or trial;

202 (5)(J)(iii) disclose the identity of a confidential source; or

203 (5)(J)(iv) concern the security of a court facility;

204 (5)(K) record identifying property under consideration for sale or acquisition by the  
205 court or its appraised or estimated value unless the information has been disclosed to  
206 someone not under a duty of confidentiality to the courts;

207 (5)(L) record that would reveal the contents of settlement negotiations other than the  
208 final settlement agreement;

209 (5)(M) record the disclosure of which would impair governmental procurement or  
210 give an unfair advantage to any person;

211 (5)(N) record the disclosure of which would interfere with supervision of an  
212 offender's incarceration, probation or parole;

213 (5)(O) record the disclosure of which would jeopardize life, safety or property;

214 ~~(5)(P) search warrants and search warrant affidavits before the filing of the return;~~

215 ~~(5)(Q)~~ (5)(P) strategy about collective bargaining or pending litigation;

216 ~~(5)(R)~~ (5)(Q) test questions and answers;

217 ~~(5)(S)~~ (5)(R) trade secrets as defined in Utah Code Section 13-24-2;

218 ~~(5)(T)~~ (5)(S) record of a Children's Justice Center investigative interview before the  
219 conclusion of any legal proceedings;

220 ~~(5)(U)~~ (5)(T) presentence investigation report; and

221 ~~(5)(V)~~ (5)(U) other records as ordered by the court under Rule 4-202.04.

222 (6) The following are juvenile court social records:

223 (6)(A) correspondence relating to juvenile social records;

224 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,  
225 substance abuse evaluations, domestic violence evaluations;

226 (6)(C) medical, psychological, psychiatric evaluations;

227 (6)(D) pre-disposition and social summary reports;

228 (6)(E) probation agency and institutional reports or evaluations;

229 (6)(F) referral reports;

230 (6)(G) report of preliminary inquiries; and

231 (6)(H) treatment or service plans.

232 (7) The following are juvenile court legal records:

233 (7)(A) accounting records;

234 (7)(B) discovery filed with the court;

235 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,  
236 findings, orders, decrees;

237 (7)(D) name of a party or minor;

238 (7)(E) record of a court hearing;

239 (7)(F) referral and offense histories  
240 (7)(G) and any other juvenile court record regarding a minor that is not designated  
241 as a social record.  
242 (8) The following are safeguarded records:  
243 (8)(A) upon request, location information, contact information and identity  
244 information other than name of a petitioner and other persons to be protected in an  
245 action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7,  
246 Protective Orders;  
247 (8)(B) upon request, location information, contact information and identity  
248 information other than name of a party or the party's child after showing by affidavit that  
249 the health, safety, or liberty of the party or child would be jeopardized by disclosure in a  
250 proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and  
251 Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title  
252 78B, Chapter 15, Utah Uniform Parentage Act;  
253 (8)(C) location information, contact information and identity information of  
254 prospective jurors on the master jury list or the qualified jury list;  
255 (8)(D) location information, contact information and identity information other than  
256 name of a prospective juror summoned to attend court;  
257 (8)(E) the following information about a victim or witness of a crime:  
258 (8)(E)(i) business and personal address, email address, telephone number and  
259 similar information from which the person can be located or contacted;  
260 (8)(E)(ii) date of birth, driver's license number, social security number, account  
261 description and number, password, identification number, maiden name, mother's  
262 maiden name, and similar personal identifying information.  
263

**1 Rule 4-202.03. Records access.**

**2 Intent:**

**3 To identify who may access court records.**

**4 Applicability:**

**5 This rule applies to the judicial branch.**

**6 Statement of the Rule:**

**7 (1) Any person may access a public court record.**

**8 (2) An adoptive parent or adult adoptee may obtain a certified copy of the adoption  
9 decree upon request and presentation of positive identification. Otherwise, no one may  
10 access a sealed court record except by order of the court. A judge may review a sealed  
11 record when the circumstances warrant.**

**12 (3) The following may access a private court record:**

**13 (3)(A) the subject of the record;**

**14 (3)(B) the parent or guardian of the subject of the record if the subject is an  
15 unemancipated minor or under a legal incapacity;**

**16 (3)(C) a party or attorney for a party to litigation in which the record is filed;**

**17 (3)(D) an interested person to an action under the Uniform Probate Code;**

**18 (3)(E) the person who submitted the record;**

**19 (3)(F) the attorney for a person who may access the private record or an individual  
20 who has a written power of attorney from the person or the person's attorney;**

**21 (3)(G) an individual with a release from a person who may access the private record  
22 signed and notarized no more than 90 days before the date the request is made;**

**23 (3)(H) anyone by court order;**

**24 (3)(I) court personnel, but only to achieve the purpose for which the record was  
25 submitted;**

**26 (3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and**

**27 (3)(K) a governmental entity with which the record is shared under Rule 4-202.10.**

**28 (4) The following may access a protected court record:**

**29 (4)(A) the person or governmental entity whose interests are protected by closure;**

30 (4)(B) the parent or guardian of the person whose interests are protected by closure  
31 if the person is an unemancipated minor or under a legal incapacity;

32 (4)(C) the person who submitted the record;

33 (4)(D) the attorney for the person who submitted the record or for the person or  
34 governmental entity whose interests are protected by closure or for the parent or  
35 guardian of the person if the person is an unemancipated minor or under a legal  
36 incapacity or an individual who has a power of attorney from such person or  
37 governmental entity;

38 (4)(E) an individual with a release from the person who submitted the record or from  
39 the person or governmental entity whose interests are protected by closure or from the  
40 parent or guardian of the person if the person is an unemancipated minor or under a  
41 legal incapacity signed and notarized no more than 90 days before the date the request  
42 is made;

43 (4)(F) a party or attorney for a party to litigation in which the record is filed;

44 (4)(G) anyone by court order;

45 (4)(H) court personnel, but only to achieve the purpose for which the record was  
46 submitted;

47 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

48 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

49 (5) The following may access a juvenile court social record:

50 ~~(5)(A) all who may access private records, except that a juvenile court competency  
51 evaluation, psychological evaluation or sex behavior risk assessment may be accessed  
52 only with the approval of a juvenile court judge, who will permit access required by due  
53 process of law in a manner that serves the best interest of the child;~~

54 ~~(5)(B) a prosecuting attorney;~~

55 ~~(5)(C) a governmental entity charged with custody, guardianship, protective  
56 supervision, probation or parole of the subject of the record in the juvenile justice  
57 system or criminal justice system;~~

58 ~~(5)(D) the Department of Human Services, school districts, and vendors with whom~~  
59 ~~they or the courts contract (who shall not permit further access to the record) but only~~  
60 ~~for court business.~~

61 (5)(A) the subject of the record, if 18 years of age or over;

62 (5)(B) a parent or guardian of the subject of the record if the subject is an  
63 unemancipated minor;

64 (5)(C) an attorney or person with power of attorney for the subject of the record;

65 (5)(D) a person with a notarized release from the subject of the record or the  
66 subject's legal representative dated no more than 90 days before the date the request is  
67 made;

68 (5)(E) the subject of the record's therapists and evaluators;

69 (5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a  
70 Guardian ad Litem, and an Attorney General involved in the litigation in which the record  
71 is filed;

72 (5)(G) a governmental entity charged with custody, guardianship, protective  
73 supervision, probation or parole of the subject of the record including juvenile probation,  
74 Division of Child and Family Services and Juvenile Justice Services;

75 (5)(H) the Department of Human Services, school districts and vendors with whom  
76 they or the courts contract (who shall not permit further access to the record), but only  
77 for court business;

78 (5)(I) court personnel, but only to achieve the purpose for which the record was  
79 submitted;

80 (5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

81 (5)(K) the person who submitted the record;

82 (5)(L) anyone by court order.

83 (5)(M) Juvenile court competency evaluations, psychological evaluations, psychiatric  
84 evaluations, psychosexual evaluations, sex behavior risk assessments, and other  
85 sensitive mental health and medical records may be accessed only by:

86 (5)(M)(i) the subject of the record, if age 18 or over;

87 (5)(M)(ii) an attorney or person with power of attorney for the subject of the record;

88 (5)(M)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a  
89 Guardian ad Litem, and an Attorney General involved in the litigation in which the record  
90 is filed;

91 (5)(M)(iv) a governmental entity charged with custody, guardianship, protective  
92 supervision, probation or parole of the subject of the record including juvenile probation,  
93 Division of Child and Family Services and Juvenile Justice Services;

94 (5)(M)(v) court personnel, but only to achieve the purpose for which the record was  
95 submitted;

96 (5)(M)(vi) anyone by court order.

97 (5)(N) When records may be accessed only by court order, a juvenile court judge will  
98 permit access consistent with Rule 4-202.04 as required by due process of law in a  
99 manner that serves the best interest of the child.

100 (6) The following may access a juvenile court legal record:

101 (6)(A) all who may access the juvenile court social record;

102 (6)(B) a law enforcement agency;

103 (6)(C) a children's justice center;

104 (6)(D) a public or private agency providing services to the subject of the record or to  
105 the subject's family; and

106 (6)(E) the victim of a delinquent act may access the disposition order entered  
107 against the defendant.

108 (7) The following may access a safeguarded record:

109 (7)(A) the subject of the record;

110 (7)(B) the person who submitted the record;

111 (7)(C) the attorney for a person who may access the record or an individual who has  
112 a written power of attorney from the person or the person's attorney;

113 (7)(D) an individual with a release from a person who may access the record signed  
114 and notarized no more than 90 days before the date the request is made;

115 (7)(E) anyone by court order;

116 (7)(F) court personnel, but only to achieve the purpose for which the record was  
117 submitted;

118        (7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and  
119        (7)(H) a governmental entity with which the record is shared under Rule 4-202.10.  
120        ~~(7)~~(8) Court personnel shall permit access to court records only by authorized  
121 persons. The court may order anyone who accesses a non-public record not to permit  
122 further access, the violation of which may be contempt of court.  
123        ~~(8)~~(9) If a court or court employee in an official capacity is a party in a case, the  
124 records of the party and the party's attorney are subject to the rules of discovery and  
125 evidence to the same extent as any other party.  
126

**1 Rule 4-403. Signature stamp use.**

**2 Intent:**

**3 To establish a uniform procedure for the use of judges' and commissioners'**  
**4 signature stamps.**

**5 Applicability:**

**6 This rule shall apply to all trial courts of record and not of record.**

**7 Statement of the Rule:**

**8 (1) A clerk may, with the prior approval of the judge or commissioner, use a**  
**9 "signature stamp" in lieu of obtaining the judge's or commissioner's signature on the**  
**10 following:**

**11 (1)(A) bail bonds from approved bondsmen;**

**12 (1)(B) bench warrants;**

**13 (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases**  
**14 or when stipulated by both parties in contested cases;**

**15 (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);**

**16 (1)(E) orders to show cause;**

**17 (1)(F) orders to take into custody;**

**18 (1)(G) summons;**

**19 (1)(H) supplemental procedure orders;**

**20 (1)(I) orders setting dates for hearing and for notice;**

**21 ~~(1)(J) orders accepting a plea in abeyance in cases for which no appearance is~~**  
**22 ~~required;~~ and**

**23 ~~(1)(K)-(1)(J)~~ orders for transportation of a person in custody to a court hearing.**

**24 (2) When a clerk is authorized to use a signature stamp as provided in paragraph**  
**25 (1), the clerk shall sign his or her name on the document directly beneath the stamped**  
**26 imprint of the judge's or commissioner's signature.**

**27 (3) All other documents requiring the judge's or commissioner's signature shall be**  
**28 personally signed by the judge or commissioner, unless the judge or commissioner, on a**  
**29 document by document basis, authorizes the clerk to use the judge's or commissioner's**  
**30 signature stamp in lieu of the judge's or commissioner's signature. On such documents,**

31 the clerk shall indicate in writing that the stamp was used at the direction of the judge or  
32 commissioner and shall sign his or her name directly beneath the stamped imprint of the  
33 judge's or commissioner's signature.

34

**1 Rule 4-906. Guardian ad litem program.**

**2 Intent:**

**3 To establish the responsibilities of the Guardian ad Litem Oversight Committee**  
**4 established in Rule 1-205.**

**5 To establish the policy and procedures for the management of the guardian ad litem**  
**6 program.**

**7 To establish responsibility for management of the program.**

**8 To establish the policy and procedures for the selection of guardians ad litem.**

**9 To establish the policy and procedures for payment for guardian ad litem services.**

**10 To establish the policy and procedures for complaints regarding guardians ad litem**  
**11 and volunteers.**

**12 Applicability:**

**13 This rule shall apply to the management of the guardian ad litem program.**

**14 This rule does not affect the authority of the Utah State Bar to discipline a guardian**  
**15 ad litem.**

**16 Statement of the Rule:**

**17 (1) Guardian ad Litem Oversight Committee. The Committee shall:**

**18 (1)(A) develop and monitor policies of the Office of Guardian ad Litem to:**

**19 (1)(A)(i) ensure the independent and professional representation of a child-client and**  
**20 the child's best interest; and**

**21 (1)(A)(ii) ensure compliance with federal and state statutes, rules and case law;**

**22 (1)(B) recommend rules of administration and procedure to the Judicial Council and**  
**23 Supreme Court;**

**24 (1)(C) select the Director of the Office of Guardian ad Litem in consultation with the**  
**25 State Court Administrator;**

**26 (1)(D) develop a performance plan for the Director;**

**27 (1)(E) monitor the Office's caseload and recommend to the Judicial Council**  
**28 adequate staffing of guardians ad litem and staff;**

**29 (1)(F) develop standards and procedures for hearing and deciding complaints and**  
**30 appeals of complaints; and**

31 (1)(G) hear and decide complaints and appeals of complaints as provided in this  
32 rule.

33 (2) Qualifications of the director. The Director shall have the qualifications provided  
34 by the Utah Code.

35 (3) Responsibilities of the director. In addition to responsibilities under the Utah  
36 Code, the Director shall have the following responsibilities.

37 (3)(A) Manage the Office of Guardian ad Litem to ensure that minors who have been  
38 appointed a guardian ad litem by the court receive qualified guardian ad litem services.

39 (3)(B) Develop the budget appropriation request to the legislature for the guardian  
40 ad litem program.

41 (3)(C) Coordinate the appointments of guardians ad litem among different levels of  
42 courts.

43 (3)(D) Monitor the services of the guardians ad litem, staff and volunteers by  
44 regularly consulting with users and observers of guardian ad litem services, including  
45 judges, court executives and clerks, and by requiring the submission of appropriate  
46 written reports from the guardians ad litem.

47 (3)(E) Determine whether the guardian ad litem caseload in Judicial Districts 1, 5, 6,  
48 7, and 8 is best managed by full or part time employment or by contract.

49 (3)(F) Select guardians ad litem and staff for employment as provided in this rule.  
50 Select volunteers. Coordinate appointment of conflict counsel.

51 (3)(G) Supervise, evaluate, and discipline guardians ad litem and staff employed by  
52 the courts and volunteers. Supervise and evaluate the quality of service provided by  
53 guardians ad litem under contract with the court.

54 (3)(H) Monitor and report to the Committee guardian ad litem, staff and volunteer  
55 compliance with federal and state statutes, rules and case law.

56 (3)(I) Prepare and submit to the Committee in August an annual report regarding the  
57 development, policy, and management of the guardian ad litem program and the  
58 training and evaluation of guardians ad litem, staff and volunteers. The Committee may  
59 amend the report prior to release to the Legislative Interim Human Services Committee.

60 (4) Qualification and responsibilities of guardian ad litem. A guardian ad litem shall  
61 be admitted to the practice of law in Utah and shall demonstrate experience and interest  
62 in the applicable law and procedures. The guardian ad litem shall have the  
63 responsibilities established by the Utah Code.

64 (5) Selection of guardian ad litem for employment.

65 (5)(A) A guardian ad litem employed by the Administrative Office of the Courts is an  
66 at-will employee subject to dismissal by the Director with or without cause.

67 (5)(B) A guardian ad litem employed by the Administrative Office of the Courts shall  
68 be selected by the Director. Prior to the Director making a selection, a panel shall  
69 interview applicants and make hiring recommendations to the Director. The interview  
70 panel shall consist of the Director (or Director's designee) and two or more of the  
71 following persons:

72 (5)(B)(i) the managing attorney of the local guardian ad litem office;

73 (5)(B)(ii) the trial court executive of the district court or juvenile court;

74 (5)(B)(iii) a member of the Committee;

75 (5)(B)(iv) a member of the Utah State Bar Association selected by the Director; or

76 (5)(B)(v) a member selected by the Director.

77 (6) Conflicts of interest and disqualification of guardian ad litem.

78 (6)(A) In cases where a guardian ad litem has a conflict of interest, the guardian ad  
79 litem shall declare the conflict and request that the court appoint a conflict guardian ad  
80 litem in the matter. Any party who perceives a conflict of interest may file a motion with  
81 the court setting forth the nature of the conflict and a request that the guardian ad litem  
82 be disqualified from further service in that case. Upon a finding that a conflict of interest  
83 exists, the court shall relieve the guardian ad litem from further duties in that case and  
84 appoint a conflict guardian ad litem.

85 (6)(B) The Administrative Office of the Courts may contract with attorneys to provide  
86 conflict guardian ad litem services.

87 (6)(C) If the conflict guardian ad litem is arranged on a case-by-case basis, the Court  
88 shall use the order form approved by the Council. The Order shall include a list of the  
89 duties of a guardian ad litem. The court shall distribute the Order as follows: original to

90 the case file and one copy each to: the appointed conflict guardian ad litem, the  
91 guardian ad litem, all parties of record, the parents, guardians or custodians of the  
92 child(ren), the court executive and the Director.

93 (6)(D) A conflict guardian ad litem's compensation shall not exceed \$50 per hour or  
94 \$1000 per case in any twelve month period, whichever is less. Under extraordinary  
95 circumstances, the Director may extend the payment limit upon request from the conflict  
96 guardian ad litem. The request shall include justification showing that the case required  
97 work of much greater complexity than, or time far in excess of, that required in most  
98 guardian ad litem assignments. Incidental expenses incurred in the case shall be  
99 included within the limit. If a case is appealed, the limit shall be extended by an  
100 additional \$400.

101 (7) Staff and Volunteers.

102 (7)(A) The Director shall develop a strong volunteer component to the guardian ad  
103 litem program and provide support for volunteer solicitation, screening and training.  
104 Staff and volunteers shall have the responsibilities established by the Utah Code.

105 (7)(B) Training for staff and volunteers shall be conducted under the supervision of  
106 the attorney guardian ad litem with administrative support provided by the Director. Staff  
107 and volunteers shall receive training in the areas of child abuse, child psychology,  
108 juvenile and district court procedures and local child welfare agency procedures. Staff  
109 and volunteers shall be trained in the guidelines established by the National Court  
110 Appointed Special Advocate Association.

111 (8) Private guardians ad litem.

112 (8)(A) The Director shall maintain a list of private attorney guardians ad litem  
113 qualified for appointment.

114 (8)(B) To be included on the list of eligible private attorney guardians ad litem, ~~the an~~  
115 applicant shall: apply for eligible private attorney guardian status to the Utah Office of  
116 Guardian ad Litem and ~~provide the following documentation:~~

117 (8)(B)(i) ~~that they are a member~~ show membership in good standing ~~with in~~ the Utah  
118 State Bar;

119 (8)(B)(ii) provide a BCI criminal history report;

120 (8)(B)(iii) provide a DCFS Child Abuse Data Base report (and like information from  
121 any state in which the applicant has resided as an adult);

122 (8)(B)(iv) provide a certificate of completion for any initial or additional necessary  
123 training requirements established by the Director;

124 (8)(B)(v) agree to perform ~~and conduct themselves~~ in a competent, professional,  
125 proficient, ethical, and appropriate manner and to meet any minimum qualifications as  
126 determined by the Director; and

127 (8)(B)(vi) agree to be evaluated at the discretion of the Director for competent,  
128 professional, proficient, ethical, appropriate conduct, and/or performance, and minimum  
129 qualifications.

130 (8)(C) Upon the appointment by the court of a private guardian ad litem, the court  
131 shall:

132 (8)(C)(i) use the following language in its order: "The Court appoints a private  
133 attorney guardian ad litem to be assigned by the Office of Guardian ad Litem, to  
134 represent the best interests of the minor child(ren) in this matter.";

135 (8)(C)(ii) designate in the order whether the private attorney guardian ad litem shall:

136 (8)(C)(ii)(a) be paid the set fee, as established by paragraph (8)(F), and an initial  
137 retainer;

138 (8)(C)(ii)(b) not be paid and serve pro bono; or

139 (8)(C)(ii)(c) be paid at a rate less than the set fee in paragraph (8)(F); and

140 (8)(C)(iii) send the order to the Director c/o the Private Attorney Guardian ad Litem  
141 Program.

142 (8)(D) Upon receipt of the court's order appointing a private guardian ad litem, the  
143 Director shall contact and assign the case to an eligible attorney, if available.

144 (8)(E) Upon accepting the court's appointment, the assigned attorney shall file a  
145 notice of appearance with the court within five business days of acceptance, and shall  
146 thereafter represent the best interests of the minor(s) until released by the court.

147 (8)(F) The hourly fee to be paid by the parties and to be ordered and apportioned by  
148 the court against the parties shall be \$150.00 per hour or at a higher rate as determined  
149 reasonable by the court. The retainer amount shall be \$1000 or a different amount

150 determined reasonable by the court. The retainer amount shall be apportioned by the  
151 court among the parties and paid by the parties.

152 (9) Complaints and appeals.

153 (9)(A)(i) Any person may file with the chair of the Committee a complaint regarding  
154 the Director, or regarding an administrative policy or procedure, not including complaints  
155 regarding a particular guardian ad litem, private guardian ad litem, or volunteer. If  
156 deemed necessary, the Committee may enter a recommendation to the Judicial  
157 Council, which may include discipline of the Director.

158 (9)(A)(ii) If a complaint regarding the Director or an administrative policy or  
159 procedure is received in the Director's office, the Director shall forward the complaint to  
160 the chair of the Committee within a reasonable time, but not more than 14 days after  
161 receipt.

162 (9)(B) Any person may file with the Director a complaint regarding a guardian ad  
163 litem employed by the Office of Guardian ad Litem, private attorney guardian ad litem,  
164 or volunteer, as defined by UCA 78A-6-902(4)(a). The decision of the Director regarding  
165 the complaint is final and not subject to appeal.

166 (9)(C) If a guardian ad litem and a volunteer disagree on the major decisions  
167 involved in representation of the client, either may notify the Director that the dispute  
168 cannot be resolved. The decision of the Director regarding the dispute is final and not  
169 subject to appeal.

170 (9)(D) The failure of the Director to satisfactorily resolve a complaint against a  
171 guardian ad litem, private attorney guardian ad litem or volunteer is not grounds for a  
172 complaint against the Director.

173 (9)(E) The Director may remove with or without a complaint a private attorney  
174 guardian ad litem from the list of eligible private guardians ad litem for failure to perform  
175 or conduct themselves in a competent, professional, proficient, ethical and/or  
176 appropriate manner or for failure to meet minimum qualifications. Within a reasonable  
177 time after the removal, and in the event the private attorney guardian ad litem has not  
178 yet been released by the court in a pending case, the Director shall provide written  
179 notice to such court of the Director's action, and the court may, in its discretion,

180 determine whether the private attorney guardian ad litem should be released from the  
181 case.

182 (9)(F)(i) A complaint shall be in writing, stating the name and contact information of  
183 the complainant, the name of the child or children involved, the nature of the complaint  
184 and the facts upon which the complaint is based.

185 (9)(F)(ii) In resolving a complaint, the Director or the Committee shall conduct such  
186 investigation as the Director or the Committee determines to be reasonable. The  
187 Director or the Committee may meet separately or together with the complainant and  
188 the person against whom the complaint is filed.

189 (9)(F)(iii) The decision of the Director may include discipline of the person against  
190 whom the complaint is filed. If the complaint is against a private guardian ad litem, the  
191 decision may include removal of the private guardian ad litem from the list of private  
192 guardians ad litem and the conditions for reinstatement.

193 (9)(G) This subsection does not apply to conflict guardians ad litem.

194

**1 Rule 6-401. Domestic relations commissioners.**

**2 Intent:**

**3 To identify the types of cases and matters commissioners are authorized to hear, to  
4 identify the types of relief commissioners may recommend and to identify the types of  
5 final orders commissioners may issue.**

**6 Applicability:**

**7 This rule shall govern all domestic relations court commissioners serving in the  
8 district courts.**

**9 Statement of the Rule:**

**10 (1) Types of cases and matters. All domestic relations matters filed in the district  
11 court in counties where court commissioners are appointed and serving, including all  
12 divorce, annulment, paternity, cohabitant abuse and child protective order matters,  
13 dating violence protective orders, orders to show cause, scheduling and settlement  
14 conferences, petitions to modify divorce decrees, scheduling conferences, and all other  
15 applications for relief, shall be referred to the commissioner upon filing with the clerk of  
16 the court unless otherwise ordered by the presiding judge.**

**17 (2) Authority of court commissioner. Court commissioners shall have the following  
18 authority:**

**19 (2)(A) Upon notice, require the personal appearance of parties and their counsel;**

**20 (2)(B) Require the filing of financial disclosure statements and proposed settlement  
21 forms by the parties;**

**22 (2)(C) Obtain child custody evaluations from the Division of Family Services or  
23 through the private sector;**

**24 (2)(D) Make recommendations to the court regarding any issue, including a  
25 recommendation for entry of final judgment;**

**26 (2)(E) Require counsel to file with the initial or responsive pleading, a certificate  
27 based upon the facts available at that time, stating whether there is a legal action  
28 pending or previously adjudicated in a district or juvenile court of any state regarding the  
29 minor child(ren) in the current case;**

**30 (2)(F) Impose sanctions against any party who fails to comply with the  
31 commissioner's requirements of attendance or production of discovery;**

**Rule 6-401.**

**Effective May 14, 2013 under Rule 2-205.  
Subject to change after the comment period**

- 32 (2)(G) Impose sanctions for contempt of court;
- 33 (2)(H) Issue temporary or ex parte orders;
- 34 (2)(I) Conduct settlement conferences with the parties and their counsel. Issues that  
35 cannot be settled shall be certified to the district court for trial; and
- 36 (2)(J) Conduct pretrial conferences with the parties and their counsel. The  
37 commissioner shall make recommendations on all issues under consideration at the  
38 pretrial and submit those recommendations to the district court.
- 39 (3) Duties of court commissioner. Under the general supervision of the presiding  
40 judge, the court commissioner has the following duties prior to any domestic matter  
41 being heard by the district court:
  - 42 (3)(A) Review all pleadings in each case;
  - 43 (3)(B) Certify those cases directly to the district court that appear to require a  
44 hearing before the district court judge;
  - 45 (3)(C) At the commissioner's discretion and after notice to all parties or their counsel,  
46 conduct hearings with parties and their counsel for the purpose of taking testimony or  
47 proffers of testimony, except in cases previously certified to the district court;
  - 48 (3)(D) Coordinate information with the juvenile court regarding previous or pending  
49 proceedings involving children of the parties; and
  - 50 (3)(E) Refer appropriate cases to mediation programs if available.
- 51 (4) Prohibitions.
  - 52 (4)(A) Commissioners shall not make final adjudications.
  - 53 (4)(B) Commissioners shall not serve as pro tempore judges in any matter, except  
54 as provided by Rule of the Supreme Court.
  - 55

# TAB 6



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

## MEMORANDUM

Daniel J. Becker  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

**To:** Policy and Planning Committee  
**From:** Tim Shea *T. Shea*  
**Date:** August 5, 2013  
**Re:** Rules for comment

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The Policy and Planning Committee recommends that the following rules be published for comment.

### **Rule summary**

CJA 04-0101. Calendaring court sessions. Repeal. Annual calendars posted at the courthouse have been replaced by daily calendars published on the court's web site.

Encl. Draft rule

**The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

450 South State Street / POB 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3808 / Fax: 801-578-3843 / email: [tims@utcourts.gov](mailto:tims@utcourts.gov)

1 ~~Rule 4-101. Calendaring court sessions.~~

2 Intent:

3 ~~To establish a procedure for calendaring court sessions and cases.~~

4 Applicability:

5 ~~This rule shall apply to all trial courts of record.~~

6 Statement of the Rule:

7 ~~(1) The clerk of court of record shall, prior to October 1 of each year, schedule the~~  
8 ~~time for holding court for each court site within that court's jurisdiction.~~

9 ~~(2) The clerk of court shall annually prepare a court calendar which shall include:~~

10 ~~(A) The locations within that court's jurisdiction in which court will be held.~~

11 ~~(B) The dates when court will be held.~~

12 ~~(3) The calendar shall be submitted to the Administrative Office prior to October 1 of~~  
13 ~~each year. Calendars shall run from January 1 through December 31 of the following~~  
14 ~~year.~~

15 ~~(4) The calendar shall be posted in a conspicuous location at the appropriate~~  
16 ~~courthouse.~~

17