

JUDICIAL COUNCIL MEETING

AGENDA May 18, 2020

Meeting held through Webex

Chief Justice Matthew B. Durrant Presiding

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
(Information)
3. 9:10 a.m. Administrator's Report..... Judge Mary T. Noonan
(Information)
4. 9:20 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Budget & Finance Committee Judge Mark May
Liaison Committee..... Judge Kara Pettit
Policy & Planning Committee Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 - Information)
5. 9:45 a.m. FY 20 Carryforward and Ongoing Turnover Savings Requests.....
(Tab 3 - Action) Judge Mark May
Karl Sweeney
6. 10:10 a.m. FY 20 Year End Additional Budget Requests Judge Mark May
(Tab 4 - Action) Karl Sweeney
7. 10:15 a.m. Facility Planning Committee Report and Reauthorization
(Tab 5 - Action) Judge David Mortensen
Chris Talbot
8. 10:25 a.m. GAL Oversight Committee Report..... Judge Robert Yeates
(Tab 6 - Information) Stacey Snyder
- 10:35 a.m. Break
9. 10:45 a.m. Approval of 2021 Judicial Council Schedule Judge Mary T. Noonan
(Tab 7 - Action)

10. 10:55 a.m. Board of Juvenile Court Judges Report Judge F. Richards Smith
(Information)
11. 11:05 a.m. Problem-Solving Court Certifications Judge Dennis Fuchs
(Tab 8 - Action)
12. 11:15 a.m. Privacy of Problem-Solving Courts Certification Checklists
(Action) Judge Dennis Fuchs
Brent Johnson
13. 11:25 a.m. Uniform Fine Schedule and Preamble Judge David Hamilton
(Tab 9 - Information) Shane Bahr
14. 11:45 a.m. CJA Rules 1-205, 4-302, 4-701, 4-704, 6-301, Appendix B and Appendix
F Keisa Williams
(Tab 10 - Information)
15. 11:50 a.m. CJA Rule 4-202.02. Records Classification.....Keisa Williams
(Tab 11 - Discussion)
- 12:00 p.m. Lunch Break
16. 12:10 p.m. COVID-19 Update Judge Mary T. Noonan
(Discussion) Chris Palmer
17. 12:25 p.m. Old Business/New Business All
(Discussion)
18. 12:45 p.m. Executive Session - There may be an executive session
19. 1:00 p.m. Adjourn

Consent Calendar

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

1. Committee Appointments
(Tab 12)

Facilities Committee – Chris Talbot
Judicial Outreach – Geoff Fattah

2. Forms Committee Forms
(Tab 13)

Brent Johnson

3. Rules 3-101, 3-104, 3-111, 6-506, 3-403, 9-101, 9-109, and 4-106 for Public
Comment
(Tab 14) Keisa Williams

Tab 1

JUDICIAL COUNCIL MEETING

Minutes

April 27, 2020

Meeting conducted through Webex

9:00 a.m. – 2:30 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Brian Cannell
Hon. Augustus Chin
Hon. Ryan Evershed
Hon. Paul Farr
Justice Deno Himonas
Hon. Mark May
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Brook Sessions
Hon. Todd Shaughnessy
Hon. John Walton
Rob Rice, esq.

Excused:

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Heidi Anderson
Shane Bahr
Kim Free
Amanda Herman
Alisha Johnson
Brent Johnson
Tom Langhorne
Larissa Lee
Meredith Mannebach
Chris Palmer
Jim Peters
Neira Siaperas
Libby Wadley
Keisa Williams
Jeni Wood

Guests:

Jacqueline Carlton, Office of Legislative Research
Hon. David Hamilton, Second District Court
Michael Harmond, Supreme Court
Commissioner Curtis M. Jensen, JPEC
Ken Matthews, CCJJ
Hon. Brendan McCullagh, West Valley Justice Court
Hon. David Mortensen, Court of Appeals
Hon. Rick Romney, Provo Justice Court
Dr. Jennifer Yim, JPEC

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the recent coronavirus pandemic, the Council held their meeting entirely through Webex.

Motion: Judge Kate Appleby moved to approve the March 13, 2020 Council minutes, as amended to correct Justice Howe’s name and to correct Judge Pullan’s statement that he was concerned about jury trials compromising efforts to address a public health crisis. Justice Deno Himonas seconded the motion, and it passed unanimously.

2. CHAIR’S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant and Judge Noonan met through Webex with President Stuart Adams and Speaker Brad Wilson to ensure there is consistent and cooperative communication between the Judiciary and the Legislature.

3. ADMINISTRATOR’S REPORT: (Judge Mary T. Noonan)

Judge Mary T. Noonan thanked Cathy Dupont for her assistance in setting up the meeting with President Adams and Speaker Wilson.

Judge Noonan announced many court employees have family members who are helping with the coronavirus pandemic or who are suffering because of the pandemic. Mandy Acevedo, Judge Todd Shaughnessy’s clerk, is in New York assisting with the pandemic. An article was published commending Ms. Acevedo’s efforts - <https://www.nyl.com/nyc/staten-island/news/2020/04/24/utah-funeral-director-volunteers-at-staten-island-morgue-#>. Utah will move from code “red” to code “orange” in the coming weeks. Eighty percent of the Judiciary is telecommuting, with special thanks to Heidi Anderson and the IT Department for preparing and distributing more than 380 laptops in a week.

Judge Noonan anticipates proposed amendments to the current Administrative Order based on feedback from the Boards of Judges who are developing recommendations for expanding the types of hearings that could be held virtually and in-person. Ms. Anderson said their department is identifying methods to hold virtual evidentiary hearings and hold jury trials under the pandemic health requirements. One idea would separate jurors in another location in the building. Rob Rice said he participated in a virtual jury trial in Georgia and the proceedings went smoothly, even with the presentation of evidence.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Ad Hoc Budget & Finance Committee Report:

Judge Mark May noted the work of the committee will be discussed later in the meeting.

Liaison Committee Report:

Judge Kara Pettit said Michael Drechsel has been in continued communication with legislators. Judge Pettit thanked Mr. Drechsel for his Legislative Summary and noted Mr. Drechsel is meeting with the Boards and other court entities for further legislative discussions. Mr. Drechsel said legislation from the recent special session did not directly impact the courts, other than House Joint Resolution 301 Urging Fiscal Responsibility, which directs state and local government entities to spend their budgets only for essential needs for the remainder of the 2020

budget year. The resolution also urged state entities to continue limited spending in the fiscal year beginning on July 1, 2020 and ending on June 30, 2021.

Policy and Planning Committee Report:

Judge Derek Pullan noted the committee did not meet in April.

Bar Commission Report:

Rob Rice said Heather Thuet was elected as Bar President-Elect. Mr. Rice reviewed other Bar elected officials.

5. FY20 REMAINING ONE-TIME BUDGET REQUESTS: (Judge Mark May and Karl Sweeney)

Chief Justice Durrant welcomed Karl Sweeney, Court Budget Director. Due to H.J.R. 301 Urging Fiscal Responsibility, several of the previously approved requests to spend this year's one time savings have been withdrawn by the requesters because they did not meet the "essential spending" threshold. Some of the approved one time spending was spent on items that had already been ordered and could not be canceled. Other requests have been placed on hold pending further discussion by the Judicial Council. At the March 13, 2020 Council meeting several budget items were approved (\$1,869,310).

Forecasted Available One-time Funds			
#	Description	Funding Type	Amount
1	Turnover Savings as of pay period ending 4/3/2020	Turnover Savings	3,239,332
2	Turnover Savings Estimate for the rest of fiscal year	Turnover Savings	744,000
3	From TCE / ADC budgets	Internal Savings	546,100
4	Probate Notice Amendments (HB 343, 2020 GS)	Legislative Action	20,500
5	Reserve Balance (from August Judicial Council meeting)	Reserve	150,000
6	Reduction in FY 2020 funds due to FY 2020 legislative session	Legislative Action	(165,000)
7	Potential Year End Career Ladder Expense	Potential Expense	(50,000)
8	Set-aside for use in FY 2021 (carryforward)	Carryforward	(2,500,000)
Total Forecasted Available One-time Funds			\$ 1,984,932
Judicial Council Prioritized / Adopted			\$ (1,869,310)
Actual Return to State Finance including other Savings			\$ 115,622

One-time Spending Plan		FY20	Judicial Council	Nonrefundable or
		Requests	Approvals	Essential (E)
One-time Budget Requests/Current Status in Bold		Amount	Amount	Non-essential (NE)
1	Courtfroom A/V Upgrades (IT) - work in process partially expended	350,000	350,000	350,000 E
2	Upgrade for the Record (FTR) Digital Recording Software (IT) - Already expended	257,600	257,600	257,600 E
17	Remote Accessories - Already expended	83,000	83,000	83,000 E
3	Learning Management System (Education) - PO ready to sign - awaiting final approval	164,100	164,100	164,100 E
4	Self-Assessment Materials (Education) - Withdrawn (W/D) by Requester	2,000	2,000	N/A NE
5	Training Equipment (Education) (laptops & equipment to create virtual training)	4,600	4,600	4,600 E
6	Alternative Dispute Resolution Training (ADR Committee) - CLASS CANCELLED	13,200	13,200	N/A NE
7	Online Dispute Resolution Facilitation Training Annual (ADR) (See Footnote)	5,000	5,000	5,000 E
8	Jury Chairs for Brigham City (3rd District) (See Footnote)	15,000	15,000	15,000 E
9	Jury Tables / Chairs for West Jordan (3rd District) (Order can be Cancelled w/o penalty)	66,700	66,700	NE
10	Carpet Replacement - Ogden Courthouse (2nd District) (Past cancellation date)	19,650	19,650	19,650 E
11	Public Viewing Agenda Monitor (Court of Appeals) (Order can be Cancelled w/o penalty)	4,000	4,000	NE
12	Mattison Cafe Room and Conference Room A/B/C Furniture (Facilities) (Partial Cancel)	130,500	130,500	130,500 E/NE
13	Workforce Performance Bonuses (State Court Administrator) - W/D by Requester	500,000	500,000	N/A NE
14	Nat's Assoc. Drug Court Prof. Annual Conference (Veteran's Court Team) - Converted to virtual conference @ \$500 per attendee	3,960	3,960	NE
16	Inventory of PCs (3/7/2020 deadline) (IT) - Already expended	250,000	250,000	250,000 E
18	NEW. See separate Request #18 document below. (IT)	279,000		279,000 E
Total One-time Spending Requests (before Contingent Requests)		2,148,310	1,869,310	1,613,450
Potential Return to State Finance				515,452
Contingent Requests				
13a	Employer Paid Benefits for Workforce bonuses (6/30/2020 deadline) (SCA) Withdraw	100,200		N/A
15	Mattison Carpet Replacement (4/15/2020 deadline) (Facilities) - Move to \$2.5M CFwd	100,000		N/A
Total with Contingent Requests:		\$ 2,708,510	\$ 1,869,310	

Potential Savings from LMS (INFOR) – Tom Langhorne, Kim Free, Libby Wadley

The following potential savings have been identified as offsets sufficient to fully pay for the INFOR LMS purchase. Other LMS systems considered did NOT have the capability to provide both of these saving:

INFOR will provide fiscal year savings because it allows the Court to eliminate the current \$18,000 annual subscription to CERTAIN, a third-party event management system (“EMS”) software provider. INFOR is the only LMS solution among the vendors competing for the LMS contract that can completely replace the functionality that CERTAIN provides within the new LMS software. INFOR also allows the court to convert many in-person classes to webinar courses (simultaneously capturing all the enrollment and completion data and storing it within INFOR). INFOR allows us to create a virtual conference with all of the features we have today.

The average yearly in-person class expenditures for venue, travel, meals and lodging for the past three years was \$64,100. The Education Department expects to replace a large number of these in-person classes with INFOR’s on-line instructional capacities, an annual savings of \$50,000. Yearly INFOR subscription costs equal \$61,800 (2 years of subscription costs are paid with the initial purchase), thereby yielding an annual net savings of \$6,200.

Replace Budgeted IT Money Spent on COVID-19 Laptops and Other Related Purchases – Heidi Anderson

Amount requested \$279,000

There were originally several items anticipated to be purchased out of the approved FY2020 IT budget (4 PVUs for Websphere \$60,000; Tybera Upgrade \$30,000; Kendo UI Components \$24,000, Router Upgrades \$65,000; and Microsoft Software \$100,000). Due to the pandemic needs for additional laptops and other related purchases for remote working, these

purchases were delayed. These were originally intended to be purchased with funding out of the \$2.5M carry forward, but due to adjustments to the FY 2020 year-end spending approved requests, these are submitted as “essential” purchases to be made as originally intended in FY 2020.

Matheson Courthouse Carpet – Chris Talbot

The Matheson Courthouse carpet replacement (\$400,000 one-time funds) request was deferred until funding could be secured. Chris Talbot confirmed that the carpet order date for delivery prior to June 30 had moved up from April 15 to April 6 due to COVID-19 constraints. Due to reduced available funds, the Budget and Finance Committee recommended that the Matheson Courthouse carpet replacement request of \$400,000 be re-submitted as a request for use of the \$2.5M carry forward spend.

Chief Justice Durrant thanked Judge May and Mr. Sweeney.

Motion: Judge Mark May moved to 1) Courtroom A/V Upgrades \$350,000; 2) Upgrade For the Record Digital Recording Software \$257,600; 3) Remote Accessories \$83,000; 4) LMS \$163,100; 5) Training Equipment \$4,600; 6) ODR Facilitation Training Manual \$5,000; 7) Jury chairs for Brigham City \$15,000; 8) Ogden Carpet Replacement \$19,650; 9) Matheson Café Room and Conference Rooms A, B, and C \$43,500; 10) Inventory of PCs \$250,000; and 11) Replace Budgeted IT Money Spent on COVID-19 Laptops and Other Related Purchases \$279,000 for a total of \$1,471,450. Judge Paul Farr seconded the motion, and it passed unanimously.

6. JUDICIAL PERFORMANCE EVALUATION COMMISSION REPORT: (Dr. Jennifer Yim and Commissioner Curtis M. Jensen)

Chief Justice Durrant welcomed Dr. Jennifer Yim and Commissioner Curtis M. Jensen. Dr. Yim introduced Commissioner Jensen, who was appointed by the House of Representative to JPEC in 2017. Commissioner Jensen commended Dr. Yim and other members of JPEC for their continued professionalism and dedication to the Judiciary.

Dr. Yim felt the Judiciary has made amazing strides in moving into a virtual world within such a limited timeframe. JPEC exceeded the statutory requirements for the fall elections. They have been conducting mid-term evaluations for judges who stand for reelection in 2022.

JPEC is now identifying ways to hold evaluations alternatively from the normal in-person observations.

In 2018, JPEC unanimously recommended 100% retention of judges. Dr. Yim notified the Council that of the approximately 70 judges scheduled for retention elections in 2020:

- 94% received unanimous recommendations by JPEC for retention,
- 3% received mixed retained votes with a favorable recommendation from JPEC for retention (split votes with at least 1% voting against retention)
- 3% received either a no recommendation, a tie vote, or a recommendation against the retention of the judge.

Since its inception, JPEC reviewed more than 300 judges, of which:

- 92% received unanimous recommendations by JPEC for retention,
- 5% received mixed retained votes with a favorable recommendation from JPEC for retention (split votes with at least 1% voting against retention)
- 3% received either a no recommendation, a tie vote, or a recommendation against the retention of the judge.

Additional information will be available in July, after judges have decided whether to run for reelection. Judges have been informed of, and were invited to discuss, this information with JPEC. JPEC noted that there has been dramatic improvements in the performance of judges who received any notes of concern in mid-term evaluations.

Chief Justice Durrant thanked Dr. Yim and Commissioner Jensen.

7. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Rick Romney and Jim Peters)

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. The justice court judges are now fully staffed. Judge Romney thanked Amy Hernandez for her assistance with the hiring process of justice court judges. There is great communication between judges and the AOC. The Board developed proposals for salary adjustments for judges and clerks. A survey was distributed where 55 out of 81 justice court judges responded. The survey addressed issues such as temporary practices due to the pandemic and continuing district-wide meetings. Judge Romney felt some judges were concerned that they were confined to only mission-critical hearings. Jim Peters noted there are attorneys who were concerned as well. Judge Romney said judges will continue some of their current practices during the pandemic after the pandemic ends.

Judge Romney thanked the Council for the creation of the Administrative Order. Chief Justice Durrant thanked Judge Romney and Mr. Peters.

8. PROPOSED AMENDMENTS TO CJA RULES 3-101, 3-403(3)(A) AND (4)(B)(I) AND 9-103: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. As a result of complications resulting from the pandemic, the Board of Justice Court Judges requested amendments to some rules as described below.

Educational Requirements:

Because the clerks' conference scheduled to be held last month and the justice court judges' conference scheduled to be held this month have both been cancelled, the Board of Justice Court Judges would request that these requirements be suspended for the year ended June 30, 2020. In addition, the Board would request that Rule 3-101(3) be suspended, if necessary, to keep judges in good standing for upcoming retention elections. And finally, the Board would request that Rule 9-103 be suspended so that the Justice Court Administrator need not report judges to the Judicial Conduct Commission for not complying with the educational requirements described below.

Rule 3-403 of the Code of Judicial Administration addresses judicial branch education. Section (3)(A) requires that “[a]ll judges, court commissioners, active senior judges, and active senior justice court judges ... complete 30 hours of pre-approved education annually.” Justice court judges and active senior justice court judges are specifically required by Section (3)(B) to attend the annual justice court conference unless excused by the Management Committee for good cause. Section (4)(B)(i) requires that all court staff employed by the justice courts complete 10 hours of approved coursework annually.

Elections

Rules 9-101(2) and 9-109(1)(A)(i) of the Code of Judicial Administration govern the elections for Judicial Council, Board and District positions held by justice court judges. Each of these rules requires that elections take place at the annual conference held each spring. Since that conference was cancelled, the Board would propose that these elections take place at the Annual Judicial Conference in September instead. The Board would also ask that those not able to attend the conference be allowed to vote in absentia. If that conference is at risk of being cancelled as well, the alternative would be to handle elections electronically for everyone – either this month or in September. Either way, these rules need to be amended. If the Management Committee agrees, language will be proposed at next month’s meeting for its consideration. If these provisions need to be suspended in the meantime, the Board would make that request as well.

Requesting Funds from the Justice Court Technology, Security and Training Account

Rule 9-107(5) of the Code of Judicial Administration requires that applications for funding from the Justice Court Technology, Security and Training Account be received by April 15. The Board would request that, for this year only, the deadline be extended to May 15.

The Management Committee approved the suspension of Rule 3-403(3)(B) to excuse justice court judges from attending the justice court conference; to suspend the operation of 9-101(2) and 9-109(1)(A)(i) and forward to Policy and Planning to amend the rule to allow elections to take place at the fall conference and allow elections through electronic means; approved extending the deadline found in Rule 9-107(5) from April 15 to May 15 for this fiscal year; and requested the Judicial Council make a determination on rules 3-101, 3-403(3)(A) and section (4)(B)(i), and 9-103. Tom Langhorne said the reporting period was changed last year to June 30 to comply with the fiscal year. Mr. Peters said many judges rely on conferences to obtain their education hours. There are some judges who have not fulfilled their required 30 education hours. The Education Department is providing free webinars to assist all members of the Judiciary. Mr. Langhorne approved training offered via Webex to be counted as education hours.

Mr. Rice said due to the Bar cancelling the Spring and Summer Conventions, it will be difficult for attorneys to comply with their education hours. Mr. Rice said if the education hour requirement is extended, it will be important to determine an end date of the extension. Mr. Peters said they are requesting an extension for this period only, if needed though, the rule can be extended further.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Paul Farr moved to suspend rules 3-101(3), 3-403(3)(A) and section (4)(B)(i) but not section (5) as hours are still required to be reported, and 9-103 for this reporting year. Judge Augustus Chin seconded the motion, and it passed unanimously.

9. INTERLOCAL AGREEMENT BETWEEN SPRINGVILLE AND MAPLETON: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Jim Peters informed the Council that Springville City Justice Court and Mapleton City Justice Court have determined that expanding Springville City Justice Courts territorial jurisdiction to include Mapleton City's boundaries would serve in the best interest of both cities. The decision was based on the following:

- The Springville Justice Court has facilities dedicated solely to the justice court, whereas, Mapleton's justice court shares the same space as its city council chambers.
- Judge Fenstermaker sits as the judge for both Mapleton and Springville. Judge Fenstermaker has expressed a desire to have the two courts combined to allow more flexibility to set hearings and manage both courts.
- Added flexibility for court scheduling will benefit Mapleton and Springville residents. Judge Fenstermaker regularly holds court in Springville on Tuesdays and Wednesdays and in Mapleton on Thursdays. By combining both courts, the court will have more flexibility to work with defendants' schedules.
- Expanding Springville's territorial jurisdiction will allow both cities to combine resources and save money. As part of the proposed territorial expansion, Judge Fenstermaker would still be compensated the same.

Springville requested that the Judicial Council Grant its application to expand the Springville Justice Court's territorial jurisdiction to include the boundaries of both Springville City and Mapleton City effective July 1, 2020.

Chief Justice Durrant thanked Mr. Peters.

Motion: Justice Himonas moved to expand the Springville Justice Court's territorial jurisdiction to include the boundaries of both Springville City and Mapleton City effective July 1, 2020. Judge Chin seconded the motion, and it passed unanimously.

10. UNIFORM FINE & BAIL COMMITTEE REPORT: (Judge David Hamilton, Shane Bahr, and Meredith Mannebach)

Chief Justice Durrant welcomed Judge David Hamilton, Shane Bahr, and Meredith Mannebach. The Uniform Fine & Bail Committee approved recommended adjustments to the Fine Schedule based on legislative changes, Wildlife Resources requests, State Parks requests, other requests, and certain changes to SMOT.

The committee may seek an amendment to the committee title to remove the word “bail” because of case law in other states around the ability to pay, what has been used as a uniform fine and bail schedule is moving towards a uniform fine schedule. Bail will likely be taken out or the uniform schedule equation. It is anticipated that the committee will meet twice a year rather than once a year as has been historically done.

Chief Justice Durrant thanked Judge Hamilton, Mr. Bahr, and Ms. Mannebach.

11. DISTRICT/JUSTICE COURT IT PRIORITY PROCESS: (Shane Bahr and Meredith Mannebach)

Chief Justice Durrant welcomed Shane Bahr and Meredith Mannebach. There are approximately 12 technology programs in the district and justice courts. Historically, a process has not been established for employees to recommend changes to court technology programs, such as CORIS, e-warrants, etc. If created, an application committee assigned to a specific program, such as CARE, would receive recommended changes and identify a priority list to forward to the Technology Standing Committee. Ms. Anderson noted the Technology Committee will meet quarterly. Mr. Bahr said he would prepare a more streamlined description of the proposal for a future Judicial Council meeting.

Judge Noonan noted conceptually the district and justice courts are moving in the right direction, but will need further explanations of their process. Judge Noonan recommended holding this discussion in approximately 90 days to allow the standing committee to clarify the process.

Chief Justice Durrant thanked Mr. Bahr and Ms. Mannebach.

12. UNIFORM FINE & BAIL COMMITTEE SCHEDULE: (Judge David Hamilton, Shane Bahr, and Meredith Mannebach)

Chief Justice Durrant welcomed Judge David Hamilton, Shane Bahr, and Meredith Mannebach. The committee considered reports from Michael Drechsel on legislative changes, specifically H.B. 206 and H.B. 485. The committee determined to table the issues related to H.B. 206 until their May 5th meeting; specifically, the issues of fine payments on previously designated mandatory appearance charges and application of pretrial release practices. H.B. 206 has an effective date of October 1, 2020 thus providing some time to consider the specific issues in greater detail. Consideration of H.B. 485 required the committee to act now due to its effective date of July 1, 2020. This bill mandates that a security surcharge of \$10 be added to sentences. Judges retain discretion on fines but the surcharge impacts the ultimate distribution of fine related money. It was clear that in order to stay “even”, considering the surcharge and its destination, fines would need to be increased by a like sum.

The committee recommended that each fine be increased by \$10, with the exception of statutorily mandated fines. The committee will review the language in the Preamble at their May 5, 2020 meeting. Due to H.B. 206 there may be additional changes identified at a later date. Judge Derek Pullan was concerned about approving the change due to a potential constitutional problem. Judge Hamilton noted more details will be addressed in the Preamble. Judge Appleby recommended approving the Preamble as soon as possible or alternatively approving both the schedule and the Preamble together. Judge Hamilton is concerned about the timing for when the

Preamble will be complete. Judge Shaughnessy thought perhaps an executive session should be held to discuss potential litigation.

Chief Justice Durrant recommended tabling this item for an executive session discussion with Brent Johnson. This item was addressed during the executive session.

Chief Justice Durrant thanked Judge Hamilton, Mr. Bahr, and Ms. Mannebach.

13. ODR GRANT: (Justice Deno Himonas)

Justice Himonas sought approval for a new SJI grant for \$185,000 for the ODR code to be shared with other states and for the PEW matching funds. The grant would enable the court to pay for a full code review, documentation enhancement, and compliance with intellectual property and governance requirements. The grants would also allow the court to develop an RFI to identify other states with interest in implementing Utah's code for ODR. Utah Courts will collaborate with the National Center for State Courts to complete the work, which is estimated to take 3-6 months. This project falls within the State Justice Institute's Priority Investment Areas – Self-Represented Litigation. PEW Research will match the SJI grant funding for \$25,000. The courts are not expected to match the awarded funds with court money. The committee previously questioned who would pay the matching funds needed if the PEW Research funds are not approved. Justice Himonas noted PEW asked the courts to request the matching funds.

This project cannot generate revenue. The courts would be providing the system at no cost to other states; therefore the courts will not be receiving a profit and not competing with the private industry. There were concerns about legal issues and the current workload on the IT Department. Justice Himonas previously noted any state seeking to use this program would cover all costs, including hiring outside IT personnel to provide service.

The grants would be used for legal fees for intellectual property regulations, a penetration test to detect external hacking vulnerabilities (pin test), and code review. Ms. Anderson would use the IT Department's security assessment employee to assist with the pin-test but the time required should be minimal. Judge Appleby questioned whether the proposal should be reworded to better clarify the terms. Justice Himonas didn't believe it needed to be reworded. Judge Kara Pettit was concerned that IT should be focused on mission-critical issues rather than facilitating other state's use of our ODR code Justice Himonas believes this project is mission-critical and will benefit the state because other states will be required to share their enhancements to the code with Utah. Ms. Anderson would be required to track the hours relevant to her team for SJI and PEW. Ms. Anderson identified the grant deliverables for the court as helping to facilitate the pin test and developing the licensing agreement completed through a law firm. Other work will be done by the National Center for State Courts. .

Chief Justice Durrant recognized this program was heavily vetted and appreciated the Council's investment in understanding the program. Chief Justice Durrant thanked Justice Himonas.

Motion: Judge Farr moved to approve the SJI and Pew grants as presented. Judge Brook Sessions seconded the motion, and it passed unanimously.

14. REGULATORY REFORM GRANT: (Justice Deno Himonas, Larissa Lee, and Michael Harmond)

Chief Justice Durrant welcomed Larissa Lee and Michael Harmond. The Utah Courts submitted a new regulatory reform grant to the State Justice Institute. The grant would help support the work of The Legal Services Oversight Office and Regulatory Sandbox which will approve pilot programs that will ease certain restrictions on the practice of law in a safe and controlled environment to allow legal service providers to experiment with new, innovative, and cost-effective legal services. The grant would provide the Court with approximately \$100,000 in in-kind staff assistance from the National Center for State Courts and the Institute for the Advancement of the American Legal System. The grant would pay for a project manager. The grant also requires some in-kind donation from the Court which may include time or equipment donated by the court, but does not include a cash contribution. Larissa Lee will devote approximately \$25,000 of her salary time to this project, but this contribution is not separately quantified in the grant application.

Cash match

FY21 \$107,214 (Grant) + \$100,000 (NCSC) = \$207,214 (in-kind match would include staff time)

FY22 \$92,786 (Grant)

The Board of Appellate Court Judges was concerned the in-kind contribution from Ms. Lee would interfere with her ability to carry out her Appellate Court Administrator duties. Ms. Lee noted the grant would provide funding to hire a project manager at the National Center for State Courts. Justice Himonas said the work of the courts and Ms. Lee have already met in kind requirements. Rob Jepsen, Access to Justice Commission Coordinator, will provide a significant amount of assistance. Ms. Lee noted the Board of Appellate Court Judges approved the grant. Justice Himonas I said a decision to charge fees during the pilot program depends on the decision of the Supreme Court, which reserved the right to charge fees. Justice Himonas noted the Bar would be notified if fees will be required. Mr. Rice questioned how much of the cost should be viewed as the cost of running the operation. Ms. Lee noted a vast majority of the grant will be spent on salary for a project manager and a small portion towards IT needs. Judge Shaughnessy asked if independent contracts are terminated, are the courts agreeing to fund this moving forward. Justice Himonas said they will not request funding from the Council at all. If funding runs low, they will seek additional grant funds. Justice Himonas said the independent contracts can be terminated at any time for any reason.

Mr. Rice spoke with Herm Olsen who expressed concern about the Bar's responsibility for supporting the regulatory reform program. Mr. Olsen was unsure about continued revenue due to the state of the economy. Chief Justice Durrant thanked Justice Himonas, Ms. Lee, and Mr. Harmond for a great job on this project.

Motion: Judge Pettit moved to approve the Regulatory Reform Grant, as presented. Judge Chin seconded the motion, and it passed unanimously.

15. BOARD OF APPELLATE COURT JUDGES REPORT: (Judge David Mortensen and Larissa Lee)

Chief Justice Durrant welcomed Judge David Mortensen and Larissa Lee. Judge Mortensen updated the Council on the following.

- Judge Mortensen praised Larissa Lee for her extraordinary work in the appellate courts.
- The estimated cost of e-filing would equal 8,600 hours at \$90 per hour for a total of \$774,000. The Utah appellate courts are the only appellate courts in the nation that do not allow e-filing.
- There may be requests in the future for the cost of e-filing.
- A large difference was noted from Court Services data showing the number of days a case is in the appellate courts, because Court Services began the timeline based on when a notice of appeal was filed. However, the appellate courts tracked cases from when an appeal was filed.
- Creating appellate records causes a considerable amount of work within the districts and juvenile courts. E-filing would allow for a single button to be used to create an entire appellate record.
- The appellate courts are holding 100% of their hearings virtually.
- The appellate roster includes 36 attorneys on the criminal roster, 11 attorneys on the child-welfare roster, and 3 attorneys on the termination of parental rights roster. The roster was created to ensure attorneys were acceptable to assist with indigent defense. The Indigent Defense Commission played a large role with this roster.

Chief Justice Durrant thanked Judge Mortensen and Ms. Lee.

16. RACIAL & ETHICS TASK FORCE RECOMMENDATIONS: (Judge Derek Pullan)

Judge Derek Pullan reviewed the Racial and Ethnic Fairness: Report on the State of the Criminal and Juvenile Justice Report and the Utah Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System (March 2004) Report. The Task Force Commission met 20 years ago and identified several areas of interest: recruiting and hiring, training, interpretation, community resources, complaint processes within police agencies and the Judiciary, and data and research. The commission disbanded in 2005. Judge Pullan requested this be a Council priority. Judge Pullan recommended having someone in the AOC review the data to evaluate the Judiciary's progress towards racial and ethnic fairness. Judge Chin suggested speaking with those that were involved in the commission, such as Dr. Jennifer Yim or Justice Michael Zimmerman. Chief Justice Durrant would like to invite those involved in the previous commissions for a discussion at the next Council meeting in an effort to reduce duplicating the work that has been done. Mr. Rice recommended contacting the Utah Center for Legal Inclusion, whose objective is to ensure law schools, attorneys, and members of the bench are diverse. Judge Shaughnessy recommended receiving data to see if the efforts from 20 years ago have shown improvement. Judge Noonan agreed that this would be an important step and that Court Services may be able to assist with this. Judge Noonan volunteered to work with Court Services to obtain updated data.

Chief Justice Durrant thanked Judge Pullan.

17. COVID-19 UPDATE: (Judge Mary T. Noonan and Chris Palmer)

Chief Justice Durrant welcomed Chris Palmer. Judge Noonan said the COVID-19 Response Team (team) up until last week met daily in the morning and focused on technology and the health and safety of court employees. The team now meets three times a week. Additionally, the TCEs, Clerks of Court, AOC Directors changed their daily afternoon meeting to twice a week. The presiding judges have participated three times in these meetings.

The team created a COVID-19 website, created a leave guidance policy, trained managers and employees on new procedures, published a remote IT equipment user guide, created a guideline for careful hiring, created and are maintaining a telecommuting dash board, and created a judicial officer well-being website. The telecommute dashboard and tracker allow the courts to identify which of the more than 1,000 court employees are working in-court, working from home, or are on other leave. Nearly 80% of judicial employees are teleworking full-time. Twenty-two percent are teleworking part-time. Only 34 employees are on disaster leave. Bart Olsen is working on identifying the reason for the 34 employees being on disaster leave, 28 of which are judicial assistants. Mr. Olsen and Heidi Anderson have been instrumental in the creation and delivery of information and technology. The IT Department is refurbishing old laptops and has ordered a considerable amount of new laptops to assist those who are telecommuting.

Judge Noonan noted the courts are beginning to address the remainder of this fiscal year budget and the FY21 budget in accordance with the recent House Joint Resolution that passed in the special session which instructed state entities to reduce costs to only what is essential. Judge Noonan suggested the following guiding principles for the budget analysis:

Principles:

- Avoid reduction of services to patrons
- If budget reductions are needed, consider administrative reductions first
- Maintain the courts commitment to the items prioritized by the Council last August and funded by the legislature for FY 21
- Evaluate current programs and services to ensure they have beneficial outcomes
- Consider revenue sources such as increases in certain fees and fines to offset budget reductions
- Provide clear and timely communication about the budget to judicial employees, judges, boards, and the Judicial Council and Management Committee.

There was concern that increasing fees might create an access to justice issue and fines are typically difficult to collect. Judge Noonan said this would be a last resort and that the principles would be published to the public. Chief Justice Durrant thanked Judge Noonan and Mr. Palmer.

Motion: Judge Shaughnessy moved to adopt the principles presented by Judge Noonan. Judge Appleby seconded the motion, and it passed unanimously.

18. RULES 1-204, 1-205, 3-111, 3-406, 4-403, 4-503, 4-905, 10-1-202, AND APPENDIX F FOR FINAL APPROVAL: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. The Judicial Council approved the following rules for public comment on November 25, 2019. One comment was received during the 45-day comment period. Policy and Planning reviewed the comment and made no amendments to the published draft. Policy and Planning Committee recommends the following rules to the Judicial Council for final approval with an effective date of May 1, 2020.

CJA 1-204 – Executive Committees

CJA 3-406 – Budget and Fiscal Management. At its October 28, 2019 meeting, the Judicial Council formalized a new executive committee, the Budget and Fiscal Management Committee. The Council asked Policy and Planning to review associated rules and outline the new Committee’s duties. Proposed amendments to Rule 1-204 add the Budget and Fiscal Management Committee to the executive committee list, and define the committee’s duties. The amendments to the State Court Administrator’s responsibilities in Rule 3-406 reflect the Council’s policy change regarding its budget process. The State Court Administrator will now make recommendations to the Budget and Fiscal Management Committee, rather than orders and notice to the Council, when implementing the Council’s fiscal priorities and allocation of funds, and when changes to those allocations are needed.

CJA 1-205 – Standing and Ad Hoc Committees. The Online Court Assistance Program Committee no longer exists. The membership lists for the Committee on Resources for Self-Represented Parties and the Committee on Court Forms include “one member of the Online Court Assistance Committee.” Because the OCAP Committee no longer exists, each membership list has been revised to remove those members, however, each committee has at least one remaining member with OCAP expertise. Both committees approved the change. The Uniform Fine and Bail Schedule Committee requested that their membership be amended by removing the juvenile court judge and adding a justice court judge. That change would ensure the both district and justice court judges are equally represented.

CJA 3-111 – Performance Evaluation of Active Senior Judges and Court Commissioners. As part of its review of new forms for reporting cases under advisement, the Standing Committee on Court Forms noticed different standards in the rules for active judges versus senior judges and commissioners. One rule (3-101) said judges must report cases over two months, while the other rule (3-111) said senior judges and commissioners must report cases over 60 days. The statute (78A-2-223) sets a standard of two months for trial judges. To allow all judicial officers to be able to use the same form, the language in Rule 3-111 has been changed from "60 days" to "two months."

CJA 4-905 – Restraint of Minors in Juvenile Court. The proposed amendment is to eliminate the subsection of the referenced statute to avoid outdated citations in the future.

CJA 10-1-202 – Verifying Use of Jury. The Second District Court requested that local supplemental rule CJA 10-1-202 be repealed because it is no longer needed. The Second District is now following practices set forth in general rules observed by all other judicial districts.

CJA Appendix F – Utah State Court Records Retention Schedule. The first amendment eliminates the requirement that the enhancement forms previously required under Rule 9-301 be retained permanently. Because Rule 9-301 was repealed, those records should now be destroyed at the same time as the file to which the record pertains. Eliminating the specific reference in the schedule will default to that result. The second amendment changes the retention for domestic violence cases to ten years to reflect the change in statute that makes those offenses enhanceable for ten years.

Chief Justice Durrant thanked Ms. Williams.

Motion: Judge Shaughnessy moved to approve amendments to rules 1-204, 3-406, 1-205, 3-111, 4-905, 10-1-202, and Appendix F with an effective date of May 1, 2020. Judge Pettit seconded the motion, and it passed unanimously.

19. BOARD OF JUVENILE COURT JUDGES RECOMMENDED CHANGES TO MARCH 21, 2020 ADMINISTRATIVE ORDER: (Neira Siaperas)

Chief Justice Durrant welcomed Neira Siaperas. This item was approved by the Management Committee meeting and unanimously approved by the Supreme Court.

Chief Justice Durrant thanked Ms. Siaperas.

20. OLD BUSINESS/NEW BUSINESS

The Management Committee approved using the technology platform in ODR and MyCase to facilitate the electronic filing of protective orders in the district court. This technology platform provides a more secure email system for the victims of domestic violence when they submit the requests for protective orders in the district court. Domestic Violence Advocacy Groups are concerned that an assailant if tech savvy would be able to intercept an emailed protective order from the victim to the court.

Prior to COVID-19, individuals filing protective orders had two options.

1. If a lawyer is obtained the protective order could be e-filed through our e-filing system.
2. If it is a pro-se litigant then they would walk into the courthouse and file in person.

Once the pandemic became prevalent, the courts opted to include a third option for filing protective orders.

3. Allow a pro-se litigant an option to file for a protective order through an email method.

Domestic violence advocacy groups were concerned about sending in protective order filings through email. The IT Department concluded that the concern was valid. An email sent into the courts from outside of the courts or the state of Utah's Google domain is not secure and can be retrieved, changed, eliminated or tracked by someone other than the sender or recipient.

The IT Department determined there were two potential options as shown below. Both options are viable and provide a long term value to the courts and could solve for the concern.

The IT Department conducted a high level of cost/implementation effort with some input from valued internal parties. Either of the options create minimal effort on the technology staff.

- Secure email option
 - This is a low-cost option and would provide value today and in the future for data that contains sensitive information. The State of Utah uses a similar process to transmit sensitive data.
 - Court staff would take minimal training.
 - Patron would send in a request to file securely.
 - Court staff would email back with encryption enabled.
 - Patron would get a link to a login page where documents could be uploaded.
 - Court staff would open case as they do today in CMS.
 - All communication between patron and court from that point is secure.

- Minimal changes to the ODR/MyCase Platform.
 - This is also a low cost option and would provide value today and in the future for securely filing protective orders.
 - Court staff would take minimal training.
 - Patron would send in request to file to court staff.
 - Court staff would set up shell case in MyCase and CMS.
 - MyCase would email patron link and code to set up account to file.
 - Patron can upload filing request and subsequent documents to system.
 - Court staff would attach to already created shell case and process as they do today in CMS.
 - Patron would be notified via MyCase when approved or denied.

Ms. Anderson said judges would not see a difference in filing with either option. Jessica Van Buren and Nathanael Player will assist with the pilot program. MyCase ties with CORIS and not CARE therefore child protective orders would not qualify. The IT Department is researching more information on this. Neira Siaperas believed most child protective orders are being filed in person. Judge Noonan said the courts are still accepting emailed protective order requests.

21. EXECUTIVE SESSION

Motion: Judge Appleby moved to go into an executive session to discuss litigation and personnel. Judge Farr seconded the motion, and it passed unanimously.

22. CONSENT CALENDAR ITEMS

a) Committee Appointments. Appointment of Judge Kirk Morgan and John Larsen to the Education Committee and the reappointment of Judge Elizabeth Lindsey and Stuart Ralphs for an additional four years; Randy Dryer (Chair) and Guy Galli or an additional three years; and Judge James Taylor and Mary Westby for an additional two years to the Forms Committee Approved without comment.

b) Forms Committee Forms. 10-day summons; Small claims complaint; Small claims summons and notice of trial; Small claims counter complaint and notice to plaintiff; Small claims judgment; Small claims notice of appeal; Request to join the Office of Recovery Services; Revised Petition to modify custody; Revised Order on petition to modify custody Petition and stipulation to modify parent-time; Findings of fact and conclusions of law on petition to modify parent-time; and Order on petition to modify parent-time. Approved without comment.

c) Probation Policies 4.15, 5.4, and 5.5. Approved without comment.

d) Rules 3-402, 4-411, and 4-202.08 for Public Comment. Approved without comment.

23. ADJOURN

The meeting adjourned.

Tab 2

**JUDICIAL COUNCIL'S
MANAGEMENT COMMITTEE**

**Minutes
May 11, 2020
Meeting held through Webex
12:00 p.m. – 3:00 p.m.**

Chief Justice Matthew B. Durrant, Presiding

Committee Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Paul Farr
Hon. Mark May
Hon. Todd Shaughnessy

Excused:

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Heidi Anderson
Shane Bahr
Geoff Fattah
Brent Johnson
Wayne Kidd
Larissa Lee
Meredith Mannebach
Jim Peters
Clayson Quigley
Neira Siaperas
Karl Sweeney
Chris Talbot
Keisa Williams
Jeni Wood

Guests:

Hon. David Hamilton, Second District Court
Justice Deno Himonas, Supreme Court

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Kate Appleby moved to approve the May 6, 2020 Management Committee meeting minutes, as presented. Judge Paul Farr seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT INCLUDING COVID-19 UPDATE: (Judge Mary T. Noonan)

Judge Mary T. Noonan said the COVID-19 Response Team is coordinating with the Management Committee's Jury Trial Workgroup and the Risk Response Workgroup. Judge

Noonan recommended the COVID-19 Response Team meet with presiding judges and the Management Committee next Tuesday. Judge Noonan proposed continuing the weekly Management Committee meeting through June, with the exception of following the regularly scheduled Tuesday (monthly) meeting.

Heidi Anderson has been working with Dr. Jennifer Yim on a number of issues to ensure court proceedings are available to JPEC members.

Brent Johnson will address the Administrative Order, if necessary, at each weekly Management Committee meeting with Justice Deno Himonas attending.

3. ADMINISTRATIVE ORDER DISCUSSION: (Brent Johnson)

Mr. Johnson said the feedback from yesterday’s Administrative Order is split, some judges felt the amended Order moved the courts in a positive direction by allowing more open proceedings, whereas, others felt the amendment was negative because it did not allow enough in-person proceedings. The Risk Response Workgroup will consist of Brent Johnson, staffing, Judge Ryan Harris (appellate), Judge Barry Lawrence and Judge Sam Chiara (district), Judge Suchada Bazzelle and Judge Troy Little (juvenile), Judge Clemens Landau and Judge Brook Sessions (justice), court-level administrators Shane Bahr, Neira Siaperas and Jim Peters, and Meredith Mannebach.

Judge Chiara distributed possible response guidelines. Mr. Johnson clarified that the guidelines be comprehensive and include employees returning to work scenarios as well as address in-person court proceedings. The requests from some counties to move to phase “yellow” were rejected.

Shane Bahr said the Jury Trial Workgroup has been meeting and anticipates a proposal for the Management Committee in June. The Jury Trial Workgroup will work in conjunction with the Risk Response Workgroup.

4. BUDGET AND FINANCE COMMITTEE REPORT: (Judge Mark May and Karl Sweeney)

Required Cuts					
#	Description	Funding Type	2%	5%	10%
	2020 Ongoing General Fund Budget (as per HB 6)*	General Fund	2,728,172	6,820,430	13,640,860
	Judiciary Overall 2021 General Fund Budget is composed of these line items:*				
	BAAA - Administration		116,986,600		
	BBAA - Grand Jury		800		
	BCAA - Contracts and Leases		16,792,900		
	BDAA - Juror, Witness, Interpreter		2,628,300		
	Total Courts General Fund Budget		136,408,600		
	*Excludes Guardian Ad Litem				
Total Potential Sources of Funds for Budget Cuts for FY 2021					\$ 13,640,860

Recommended for Budget Cuts - Options		Subtotal	
Item	Amount	Amount	
2% Budget Cut (operational efficiencies)			
1	Administrative (mileage, travel, catered meals, UTA passes, current expenses, etc)	653,514	One time savings from this item \$ 253,775
2	Personnel - Vacant Positions no intent to fill	255,900	
3	Xchange Fee Increase (\$10 increase on \$30 monthly fee)	300,000	
4	Court Security - Return General Fund	507,400	
5	Reduce "And Justice For All" pass-through (2% of \$795K)	16,000	
6	Facilities	351,573	
7	Personnel - Incentivized Retirements Ongoing Turnover Savings	245,000	One time savings from this item \$ 700,000
8	FY 2020 Ongoing Turnover Savings	300,000	
9	Juror, Witness, Interpreter (historical savings to budget)	100,000	
	Subtotal - Should meet 2% cut threshold of \$2,728,172	2,729,487	
5% Budget Cut -			
10	Balance of FY 2020 Ongoing Turnover Savings	220,000	
11	Personnel - Average Annual 1x Turnover Savings	4,000,000	
12	Personnel - FY 2021 Ongoing Turnover Savings (excluding Incentivized Retirements)	230,148	
	Subtotal	4,450,148	
	Cumulative Total - Should meet 5% cut threshold of \$6,820,430	7,179,635	

10% Budget Cut-			
13	Consolidate Court Locations (requires statutory change)	63,000	
14	Personnel - Judicial Officer Turnover Savings	150,000	
15	Programs (3rd Party Services to Adults and Juveniles)	1,053,000	One time savings from this item \$ 65,775
16	Additional Programs	723,321	
17	Personnel - Hiring Freeze for FY 2021 (excl Judges & Incentivized Retirements)	1,369,852	
18	Personnel - Furloughs (12 days per FTE (excl. Judges))	2,919,976	
19	Personnel - Layoffs	182,076	
	Subtotal	6,461,225	
	Cumulative Total - Should meet 10% cut threshold of \$13,640,860	13,640,860	\$ 13,640,860 check

Karl Sweeney reviewed the Judiciary response to the Legislature request to deliver 2%, 5%, and 10% budget reduction scenarios. The scenarios, approved by the Budget & Finance Committee has been sent to Gary Syphus, Legislative Fiscal Analyst.

Judge Mark May noted there is a constitutional issue with reducing a judge's salary by including judges in the furlough proposal. Chief Justice Durrant thanked the Budget & Finance Committee, Mr. Sweeney, and all who were involved with this process.

5. FACILITY PLANNING COMMITTEE SUNSET: (Chris Talbot)

In accordance with Code of Judicial Administration Rule 1-205(1)(D), the Facility Planning Committee is requesting a performance review and recommendation of continuance from the Management Committee to the Judicial Council for another 6-year term.

Utah Courts Rule 3-409 outlines the intent and goals of the Court Facilities Planning Standing Committee.

- To provide for the effective planning of court capital facilities.
- To promote the efficient use of new and existing courthouses through application of colocation and multi-use court facility concepts.
- To establish a framework for the conceptual, planning, developmental and implementation phases of court capital facilities.
- To provide for Council review and approval of all proposed court capital facilities.
- To ensure adherence to the design and space guidelines and other requirements of the Utah Judicial System Capital Facilities Masterplan.
- Judge Mortensen and Chris Talbot provide an annual report to the Judicial Council every May to forward prioritized issues, opportunities and projects that meet the Committee's goals.

Notable accomplishments over the past 4 years

2020 Update of the Utah Judicial Facility Design Standards
 2020 27 prioritized capital improvement projects requested at \$5.4M
 2020 State Funding request presentation to IGG sub-committee for a new Manti Courthouse – not funded for \$20M. Will present request again in 2021.
 2019 Opening of new Provo Fourth Judicial District Courthouse
 2019 State Funding request presentation to State Building Board for a new Manti Courthouse – Ranked 3rd out of 11 projects
 2019 10 prioritized capital improvement projects completed at \$5.6M
 2019 State Funding request presentation to IGG sub-committee for a new Manti Courthouse – not funded for \$19M
 2018 State Funding request presentation to State Building Board for a new Manti Courthouse – Ranked 9th out of 12 projects
 2018 Opening of new Carbon County Seventh District Courthouse
 2018 16 prioritized capital improvement projects completed at \$5.1M
 2016 Update of the Utah Judicial Facility Design Standards
 2016 Opening of Ogden Second District Juvenile Courthouse

Motion: Judge Appleby moved to approve this item and include it on the Judicial Council agenda, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

**6. COMMITTEE APPOINTMENTS: (Chris Talbot and Geoff Fattah)
 Facility Planning Committee**

Chris Talbot addressed an industry professional vacancy position and the reappointments of Judge David Mortensen, Judge James Brady, and Judge Jeffrey Nolan (all appointed in 2017). The committee recommended the appointment of David McKay and the reappointments as listed.

Motion: Judge Appleby moved to approve the appointment of David McKay and the reappointments of Judge David Mortensen, Judge James Brady, and Judge Jeffrey Nolan to the Facility Planning Committee, and to place this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

Judicial Outreach Committee

Geoff Fattah addressed a community representative vacancy. The committee recommended the appointment of Melinda Bowen. The committee also recommended the reappointment of Judge Elizabeth Hruby-Mills for a third term. The committee further sought approval to amend Rule 1-205 (1)(B)(vii) to allow the AOC General Counsel (or representative) and the Utah State Law Librarian (or representative) become permanent members.

Motion: Judge Appleby moved to approve the appointment of Melinda Bowen to the Judicial Outreach Committee, and to place this item on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

Motion: Judge Farr moved to approve the reappointment of Judge Elizabeth Hruby-Mills for a third three-year term to the Judicial Outreach Committee, and to place this item on the Judicial Council consent calendar. Judge Appleby seconded the motion, and it passed unanimously.

Motion: Judge Appleby moved to approve the amendment of Rule 1-205(1)(B)(vii) to allow for the AOC General Counsel (or representative) and the Utah State Law Librarian (or representative) positions to be permanent on the Judicial Outreach Committee, and to send this item to the Policy & Planning Committee. Judge Farr seconded the motion, and it passed unanimously.

7. **INTERNAL AUDIT DEPARTMENT'S CHARTER: (Wayne Kidd)**

This past December 2019 an external assessment was completed on the Internal Audit Department. The assessment recommended that the Internal Audit Charter be updated to clearly identify the key areas that support the overall strength and effectiveness of the department. The charter is a formal document approved by the Management Committee that provides a blueprint for how the Internal Audit Department will operate. The charter has been updated according to the Institute of Internal Auditors (IIA) guidelines.

According to the IIA, the charter must clearly define the internal audit's purpose, authority, independence, and responsibility within the organization. While elements of these four areas are present throughout the current charter, the charter needed to be reorganized to more clearly define and articulate those four areas. For example, the Purpose section of the charter contained elements of authority and responsibility. After clearly defining each area, enhancements were made to strengthen each of the four areas. The significant enhancements include:

- **Purpose**—the department will use a systematic and disciplined approach to evaluate the effectiveness of the organization's governance, risk management, and internal control processes.
- **Authority**—the authority to establish an internal audit is required by statute (UCA 63I-5), and the audit department has unrestricted access to all Courts' records, physical properties, and personnel pertinent to carrying out an engagement. Access to information is an important element to effectively operate.
- **Independence**—the department will be free from interference by any element, including matters of audit selection, procedures, frequency, timing, or report content to permit maintenance of a necessary independent and objective mental attitude. Also, internal auditors will have no direct operational authority over any of the activities audited.
- **Responsibility**—clearly stating the department will conduct performance audits in addition to fiscal audits to improve court operations.

In addition to the four essential areas mentioned above, the IIA has identified other important components that should be included to strengthen the charter. The current charter included some elements regarding organization, reporting, and professional standards. However, the updated charter includes the following additional components:

- **Organization**—the internal audit director will report functionally to the Management

Committee and administratively to the state court administrator. The responsibilities of the Management Committee as defined in statute are listed.

- **Reporting and Monitoring**—the department will prepare a written report for all internal audit engagements, and the department will be responsible for appropriate follow-up on engagement findings and recommendations.
- **Professional Standards**—the department will follow the IIA Code of Ethics. The department’s quality assurance program will include an external assessment conducted every five years.

The current charter includes a section on Team Processes. However, those processes should be outlined in the department’s policy and procedures manual, and the updated charter states that the department staff will follow the policy and procedures. The Team Processes section has been removed from the updated charter. Mr. Kidd noted Mr. Sweeney began this process but has not reviewed the completed document.

Motion: Judge May moved to postpone the approval of the recommended changes to the Charter until Mr. Sweeney can review the final document. Judge Farr seconded motion, and it passed unanimously.

8. PREAMBLE TO THE UNIFORM FINE SCHEDULE: (Judge David Hamilton and Shane Bahr)

Judge David Hamilton said the Uniform Fine Committee amended the Fine Schedule, which was presented to the Management Committee last month. The committee completed their work on the Preamble updates. The Preamble changes are in concert with HB 206. The changes move away from the term “bail” changing the Schedule to the Uniform Fine Schedule and changing the committee name to the “Uniform Fine Committee.” Mr. Bahr said the new schedule will be effective before the May 18 Council meeting.

Motion: Judge Farr moved to approve the Preamble changes and the Uniform Fine Schedule, effective May 12, 2020, and to place this item on the Judicial Council agenda for information only, as amended in section #1 Nonresident Violator Compact, remove “under Utah Code section 77-7-22,” in the first line. Judge Appleby seconded the motion, and it passed unanimously.

9. UNIFORM FINE RULE AMENDMENTS: (Keisa Williams)

On May 5, 2020, the Uniform Fine and Bail Committee met to address adjustments to the Fine Schedule, conduct a revision of the preamble, and review pretrial release and ability-to-pay amendments related to HB 206. In discussing those issues, it was determined that several rules in the Code of Judicial Administration should be amended at the same time. Some of the rules listed below require expedited approval to coincide with changes to the Uniform Fine Schedule, others can be addressed through the normal rulemaking process. Proposed amendments to the court’s website are outlined in a separate attachment.

Relevant to this discussion, HB 206 amends all references to the schedule to the “uniform fine schedule.” The bill sponsor neglected to change the title of Utah Code § 77-7-21 (line 193 of HB 206), but throughout that section language referring to the “voluntary forfeiture of bail” has

been removed and instead states that defendants may “remit fines.” The title change was an oversight and Mike Drechsel plans to bring the issue to the sponsor’s attention. Another minor oversight is found in Utah Code § 77-20-4(2)(b) (line 530 of HB 206). In that section, “voluntarily forfeit monetary bail” needs to change to “voluntarily remit a fine.”

In Utah Code § 77-20-1(1)(c) (line 275 of the HB 206), “bail” is defined as “release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.” We’ve never really had a clear definition of bail in the statute until now. It isn’t defined elsewhere in the statute and throughout the Code “bail” is used interchangeably to mean both “money” and “release.” The correct meaning of the word “bail” is “release,” so it’s nice to have that clarified in the code somewhere. Currently, the schedule and many court rules also erroneously use “bail” to mean both “money” and “release,” and it is used interchangeably in both pre- and post-disposition contexts. All of which necessitate many of the changes proposed here and in the schedule itself.

It is recommended that the following proposed rule amendments be approved on an expedited basis with an effective date the same as that of the 2020 Uniform Fine Schedule:

- Rule 1-205. Standing and ad hoc committees
- Rule 4-302. Uniform recommended fine/bail schedule
- Rule 4-701. Failure to appear
- Rule 4-704. Authority of court clerks
- Rule 6-301. Authority of court commissioner as magistrate
- App. B. Justice Court Standards
- App. F. Utah State Courts Records Retention Schedule
- Rule 3-407. Accounting.
- Rule 4-609. Procedure for obtaining fingerprints and Offense Tracking Numbers on defendants who have not been booked into jail
- Rule 10-1-404. Attendance and assistance of prosecutors in criminal proceedings

Rules 3-407, 4-609, and 10-1-404 will be addressed through Policy & Planning.

Motion: Judge Shaughnessy moved to approve amendments to Rules 1-205, 4-302, 4-701, 4-704, 6-301, Appendix B and Appendix F with an effective date of May 12, 2020, and to include this item on the Judicial Council agenda as an information item, as presented. Judge Appleby seconded motion, and it passed unanimously.

10. WEIGHTED CASELOAD STUDIES: (Judge Mary T. Noonan)

Judge Noonan requested the Management Committee approve the work on all weighted caseload studies be put on hold and approve the hiring of an outside vendor, through a contract, to take-over the creation and preparation of the studies. The National Center for State Courts has a dedicated team that is qualified to assist with weighted caseloads. The committee agreed the work on weighted caseloads is very important. Judge Noonan will research the costs and report to the Management Committee.

Motion: Judge Appleby moved to approve this approach with the understanding that Judge Noonan will return to the Management Committee with proposed costs, as presented. Judge Farr seconded motion, and it passed unanimously.

11. APPROVAL OF 2021 MANAGEMENT COMMITTEE AND JUDICIAL COUNCIL SCHEDULE: (Judge Mary T. Noonan)

Judge Noonan reviewed the proposed 2021 schedules. The committee agreed to the dates and will forward to the Council for approval.

12. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant addressed the Judicial Council agenda. The Judiciary Total Compensation Strategy item was moved to the June meeting. The Uniform Fine Schedule and Preamble will be amended from an action item to an information item. Rules 1-205, 4-302, 4-701, 4-704, 6-301, Appendix B and Appendix F will be included on the Judicial Council agenda as an information item.

Motion: Judge Appleby moved to approve the Judicial Council agenda, as amended. Judge Farr seconded motion, and it passed unanimously.

13. OLD BUSINESS/NEW BUSINESS: (All)

Cathy Dupont is working on a memo to address policy for remote hearings through Webex. JPEC expressed concerns in delaying their work until Webex events is in place. JPEC would like to request, through the judge, to have their JA send an invitation to hearings. JPEC has an email that only identifies a JPEC member is present, but not who the JPEC member is. In implementing this interim step, there is concern with some judges and court administrators as to the fairness to the judges. Ms. Dupont sought approval from the committee to allow this temporary process. Heidi Anderson said some concerns include having attorneys behave differently if they knew JPEC was viewing the hearing. Judge Shaughnessy said flexibility is important but also judges do not have to disclose that JPEC is viewing a hearing.

Judge Noonan will relay the information discussed to Dr. Yim.

14. EXECUTIVE SESSION

An executive session was not held.

15. ADJOURN

The meeting adjourned.

Agenda

**JUDICIAL COUNCIL'S
AD HOC BUDGET & FINANCE COMMITTEE**

**Minutes
May 11, 2020
Meeting held through Webex
12:00 p.m. – 2:00 p.m.**

Members Present:

Hon. Mark May, Chair
Hon. Augustus Chin
Hon. Kara Pettit

Excused:**Guests:**

Wendell Roberts, TCE Sixth District
Larry Webster, TCE Second District

AOC Staff Present:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Shane Bahr
Alisha Johnson
Larissa Lee
Jeremy Marsh
Bart Olsen
Jim Peters
Neira Siaperas
Karl Sweeney
Jeni Wood

1. WELCOME: (Judge Mark May)

Judge Mark May welcomed everyone to the meeting.

2. BUDGET REDUCTIONS FY 2021: (Karl Sweeney, Alisha Johnson, Bart Olsen, and Jeremy Marsh)

The Judicial Branch received a request from Gary Syphus, Legislative Fiscal Analyst for a detailed description of possible Judiciary budget reductions in response to the impacts of the COVID-19 pandemic. The FY 2020 Utah State Budget was funded from the Education and General Funds (\$8.6 billion) and the Courts General Funds budget (\$136 million, which represents 1.6% of the total state budget).

Judiciary Overall 2021 General Fund Budget is composed of these line items:*	
BAAA - Administration	116,986,600
BBAA - Grand Jury	800
BCAA - Contracts and Leases	16,792,900
BDAA - Juror, Witness, Interpreter	2,628,300
Total Courts General Fund Budget	136,408,600
*Excludes Guardian Ad Litem	

Recommended for Budget Cuts - Options		Subtotal
Item	Amount	Amount
2% Budget Cut (operational efficiencies)		
1	Administrative (mileage, travel, catered meals, UTA passes, current expenses, etc)	653,514
2	Personnel - Vacant Positions no intent to fill	196,700
3	Xchange Fee Increase (\$10 increase on \$30 monthly fee)	300,000
4	Court Security - Return General Fund	507,400
5	Reduce "And Justice For All" pass-through	150,000
6	Facilities	351,673
7	Personnel - Early Retirements (based upon 31 of 62 eligible employees accepting offer)	268,000
8	FY 2020 Ongoing Turnover Savings	300,000
9	Juror, Witness, Interpreter (historical savings to budget, reduce juror snacks, less interpreter mileage)	100,000
Subtotal - Should meet 2% cut threshold of \$2,728,172		2,827,287
5% Budget Cut -		
10	Balance of FY 2020 Ongoing Turnover Savings	220,000
11	Personnel - Ongoing return of 1x savings from 50 FTE vacant positions	4,000,000
12	Personnel - FY 2021 Ongoing Turnover Savings (excluding Early Retirements) of 40 positions	230,148
Subtotal		4,450,148
Cumulative Total - Should meet 5% cut threshold of \$6,820,430		7,277,435
10% Budget Cut-		
13	Consolidate Court Locations - Roosevelt closure 10.1.2020 (requires statutory change)	63,000
14	Personnel - 3 month delay in hiring 2 judicial officers	150,000
15	Programs (3rd Party Services to Adults and Juveniles)	1,053,000
16	Additional Programs (possibly requires statutory change)	2,517,521
17	Personnel - Ongoing return of 1x savings from additional 40 FTE vacant positions, net	1,369,852
18	Personnel - Furloughs (3 days per FTE (excl. Judges))	729,994
19	Personnel - Increase Furloughs (2 additional days per FTE (excl. Judges))	486,663
20	Personnel - Layoffs	-
Subtotal		6,370,030
Cumulative Total - Should meet 10% cut threshold of \$13,640,860		13,647,465

The descriptions below are intended to provide a detail of potential 2%, 5% or 10% budget reductions.

Item 1: \$653,514

Description: Administrative (Includes all Departments in the Judiciary)

Details: Represents non-personnel ongoing savings in multiple areas such as travel, postage, food, training, UTA passes, equipment, subscriptions, motor pool, etc.

Wendell Roberts reduced Administrative items in one-time savings but not in ongoing savings. Mr. Sweeney explained the variations between the one-time and ongoing Administrative savings. Alisha Johnson will distribute the details of anticipated one-time and ongoing savings to the committee.

Item 2: \$196,700

Description: Personnel – Vacant Positions No Intent to Fill

Details: Represents two vacant positions in two districts, one position that can be reduced from full-time to part-time in another district and an education position which will be used 50% of their time to train justice court clerks and the funding has been reduced appropriately from the general fund.

Item 3: \$300,000**Description:** XChange Fee Increase

Details: The XChange monthly subscription has never been increased (10+ years). The courts are proposing that this fee be increased from \$30 per month to \$40 per month. For those who are interested in an annual subscription, the fee would only rise to \$33 per month but all due in advance (\$400). Further, an increase in the cost per search would rise from .10 cents to .15 cents per search. The free searches with the monthly plan would increase from 200 to 500. Annual pay subscriptions reduce the difficulty of collecting which falls on clerical staff in the Information Services Department.

Item 4: \$507,400**Description:** Court Security – Return General Fund

Details: Due to shortfalls in court security funding in recent years, the Legislature added general funds to this account. The Legislature passed in the 2020 Legislative Session (HB 485) an increased amount of security fees collected on various filings. The estimated incremental revenue to the Court Security Fund annually from this legislation is \$3 million - \$4 million (base court security annual fees is approximately \$8 million). This is simply a return of the general fund added recently back to the Legislature.

Item 5: \$150,000**Description:** Reduce “And Justice for All” Pass-Through

Details: Per Brent Johnson all the money is given to And Justice for All. According to their report to us from the last fiscal year, the money constitutes approximately 18% of their total expenditures. The money is used to employ attorneys (and possibly a paralegal) to provide assistance to their clients. More than 90% goes to salary and benefits, with the rest covering equipment, training and travel, and rent. Depending on the size of the budget reduction, And Justice for All would likely need to reduce personnel. The Legislature wants to assist Legal Aid and Legal Services but because they cannot appropriate money directly to them they give us the money to award grants. It's purely a policy decision on their part as to whether they want to continue funding. The courts have no position, although are in favor of any and all efforts to provide assistance to those who are disadvantaged. The total amount of the pass-through is \$795,000. The most recent increase from the Legislature was \$150,000.

Judge Kara Pettit and Cathy Dupont recommended further edit of this request. Judge Mary T. Noonan recommended reducing this amount to \$50,000. Ms. Johnson said the pass-through is \$795,000. Mr. Sweeney will increase the XChange total to \$16,000.

Item 6: \$351,673**Description:** Facilities

Details: Ongoing annual reductions at Park City (\$158,000) and Bountiful (\$193,000) courthouses. This will cause no impacts to court services. The Bountiful decrease is due to a construction bond payment ending. The Park City decrease is due to the cost of a remodeling being paid off.

Item 7: \$268,000**Description:** Personnel – Early Retirements

Details: As of May 1, 2020, there are 62 court employees that are eligible for early retirement. The courts have not yet made an incentive offer to those who have 30 years of service or are over 65 years old, but intend to do so. This offer will come with a maximum one-time payment of \$8,000. HR will develop the full offer in the next couple of weeks. The courts estimate 31 eligible employees will accept the offer. The one-time money offsets one-time turnover savings. It is assumed all of those who accept an early retirement offer will be replaced.

Jeremy Marsh stated in an email “To summarize - there are 26 employees eligible to retire with at least 30 years of service. There are 2 employees with 29 years of service who will be eligible by next fiscal year. There are 34 who are age eligible to retire because they are in the age group of 65 and over. This group has anywhere from 3 months of service at the courts to 28 years.” It was recommended to reduce the uptake from 50% to 30% (**Karl – I don’t know what uptake means**) either immediately or gradually. Judge May questioned if the positions would be replaced during a soft hiring freeze. The committee decided to not amend this item. Mr. Sweeney and Bart Olsen will discuss this item after the meeting.

Items 8 and 10: \$300,000 and \$220,000 = \$520,000

Description: FY 2020 Ongoing Turnover Savings

Details: This amount represents the expected ongoing turnover savings which the Judicial Council will be able to elect not to spend in FY 2020. Historically, these funds have been used to fund career ladder and market pay adjustments.

The balance in the ongoing turnover savings is currently \$600,000 for FY 2020. Here is the roll-forward:

Expected sources/uses of OTS May – June 2020:

Balance as of May 1, 2020	\$600,000
OTS generated May – June	\$100,000
Career Ladder – above budget	(\$40,000)
District/Juvenile hot spots	(\$30,000)
Anticipated funding of Self-Help Center	<u>(\$110,000)</u>
Budget Savings	\$520,000

Item 9: \$100,000

Description: Juror, Witness, Interpreter

Details: Represents historical surplus in this account, primarily in juror and witness amounts appropriated, combined with select other reductions in interpreter spend. The budget was set higher than needed, therefore, this reduction is comfortable and conservative. This reduction will not affect court services. Mr. Sweeney will remove juror snacks from the description.

Item 11: \$4 million

Description: Personnel – Ongoing Return of 1x Savings from 50 FTE Vacancies

Details: The courts have typically had +/- 50 positions vacant at any particular time. As of May 7, 2020 there were 40 unfilled positions out of 991 total positions (excluding 119 judge positions). The courts have shown that they can operate successfully with these 50 vacant positions. The courts will keep a minimum of 50 positions vacant during all of FY 2021.

Traditionally, the savings from these vacant positions translates into one-time turnover savings and is used to fund various requests (FY 2020 year-end surplus) and carryforward requests (\$2.5 million). The courts have committed with this savings to not request FY 2021 year-end surplus or carryforward requests that originate from these savings, thus turning them into ongoing savings. The committee agreed to remove the description of this item due to the interpretation of the message. Judge Noonan recommended the message of the description include ongoing personnel savings from turnover. Mr. Sweeney recommended the description be average annual one-time turnover savings. The committee understood this request is a temporary reduction for approximately one year.

Item 12: \$230,148

Description: Personnel – FY 2021 Ongoing Turnover Savings

Details: In FY 2020, there were approximately 200 position turnovers. Due to the effects of the pandemic, it is assumed that the pace of turnover will decline. The courts assume that even with the effects of the pandemic at least 40 of the 948 filled positions will turnover in FY 2021. This represents the impact of ongoing turnover savings from the filling of these 40 positions.

Item 13: \$88,350

Description: Consolidate Court Locations – Roosevelt Courthouse Closure

Details: Eight District TCE Russ Pearson:

Roosevelt Courthouse Closure

Roosevelt is an old circuit court site. Much like Cedar City, it continued as a state site because of its population base and not because it is the county seat. Roosevelt City obtained funding from the Permanent Community Impact Board (PCIB) to construct a new city hall and court during the 1990s. In 2009, the Judicial Council forwarded to the Legislature a list of courthouses to consider closing as part of the budget reductions during that period. Roosevelt was taken off the list since Roosevelt City still owed money to the PCIB for the construction. The lease payments made by the courts covered the city's bond obligation. There is no current obligation for Roosevelt City.

The Roosevelt Courthouse served its function well, until the last five years. As the number of judges increased in Duchesne County, they found it difficult to schedule hearings in Roosevelt. At that time Duchesne also only had one courtroom as well. At that point, the Courts entered into an agreement to expand the Duchesne courthouse.

In 2012, when the Judicial Council approved the assistance of the Seventh District judges in Duchesne, all felonies and domestic cases were moved to Duchesne from Roosevelt. After the addition of our new judges in 2016 all juvenile cases were moved to Duchesne as well as all civil cases except for simple civil cases. Over the last two years there has been an increase in civil filings in Duchesne along with a decrease in the same filings in Roosevelt. Currently, the only cases heard in Roosevelt are the municipal cases and simple civil.

The Roosevelt site is in need of many improvements. The courtroom is not constructed in a way to hold a jury trial for more than a municipal case, the jury box will not seat a sufficient

number of jurors. Building security is lacking. There is only one chamber and the jury room is also the break room and bathroom facilities for staff.

The savings for closing the Roosevelt site would be \$33,800. If the staff moved to Duchesne that would provide an efficiency that would allow a reduction in staff in Duchesne by one JA, which would be an additional \$50,000. Shane Bahr said there has not been any further discussion with the municipality. The committee agreed to not include specific court locations with this description. Michael Drechsel explained one of the two legislative representatives might appreciate having services in Roosevelt and recommended communicating this with local government. Ms. Dupont said there is value in informing people of the possibilities. Jim Peters asked if the courts should consider all of the courts that are conducting justice court work. Mr. Drechsel said if this site is seriously being considered for consolidation, it should be listed and local government should be notified. Judge Noonan suggested not including the city names in this request as the conversation will be revolving with the clarity of budget issues. The committee agreed to remove the description and any identifying courthouses.

Item 14: \$150,000

Description: Personnel – 3 Month Delay in Hiring 2 Judicial Officers

Details: It is the understanding that this was a part of the FY 2009 budget reduction plan. This is a hypothetical impact as no change in judgeships are known at this time for FY 2021. Judge Noonan said this would require a statutory amendment (Utah Code § 78A-2-113) in appellate, district, and juvenile courts. Ms. Dupont questioned how this would affect the senior judge budget if the delay is approved. Mr. Bahr said it takes about six months from announcement of a judicial position to their first day. Judges typically, as a courtesy, provide a six-month notice to the Governor when they leave/retire. Ms. Dupont suggested amending the description from delaying to replacing. Mr. Bahr suggested changing it to judicial officer turnover savings. Mr. Sweeney confirmed that the turnover savings listed above in the minutes do not include judicial officers. Judge May was concerned about including amounts, 3 month delay and 2 judicial officers. The committee agreed to amend this item to “judicial officer turnover savings.”

Item 15: \$1,053,000

Description: Programs (Third Party Services to Adults and Juveniles)

Details: The TCE’s in consultation with court administrators have indicated which programs they would be able to eliminate or reduce. Due to the dramatic impact on the court’s services to adults and juveniles, these reductions have not been offered sooner in priority.

Item 16: \$2,517,521

Description: Additional Programs

Details: The court administrators and TCE’s in consultation have indicated which programs they would be able to eliminate or reduce as a second wave to item 15. Mr. Bahr explained getting to the 10% would reduce the trial court law clerk positions by half. The courts may need to move to a statewide law clerks scenario. Mr. Sweeney will work on additional furloughs rather than law clerk position reductions. The AOC Program Coordinator position item should not be included within the “programs” section. Mr. Bahr confirmed if the Guardianship program was eliminated then the court would not need the personnel. Mr. Sweeney will remove the law clerk

item and increase the furlough days to appropriately compensate for the anticipated budget reduction (approximately 10 furlough days).

Item 17: \$1,369,852

Description: Personnel – Ongoing Return of 1x Savings from Additional 40 FTE Vacant Positions, Net

Details: Item 12 described a situation where FY 2021 turnover (excluding early retirements) of 40 positions (above the 50 vacancies already vacant) were filled and resulted in ongoing turnover savings which was reflected in item 12. If the Legislature demands higher budget reductions, the alternative to filling the turnover positions will have to be changed to the same assumption in item 11. The newly-turned over 40 positions will not be filled and the ongoing turnover savings will be replaced by ongoing return of 1x savings from 40 FTE vacant positions.

Items 18 and 19: \$729,994 and \$486,663

Description: Personnel – Furloughs

Details: The TCE's and AOC court administrators held a candid discussion about furloughs versus layoffs. The consensus was that within some limits, furloughs would be preferable. These items set forth the amount of savings from 3, then an additional 2, furlough days for all court personnel (excluded judges). Mr. Olsen said softening furloughs by allowing employees to select their dates might be positive for morale. Larry Webster asked if employees exchanged vacation dates for furloughs. Ms. Johnson said those wouldn't count because the courts would still be paying the employee. Mr. Sweeney thought it may work if employees take annual leave rather than get furloughed. There is a percentage of accumulated leave goes into a termination pool where excess annual leave is paid out when an employee leaves.

The request is one furlough day a month for one year. Mr. Olsen noted the maximum furlough days is 20 for an employee. Judge Noonan said increasing the furlough to 20 days, along with other reductions, such as removing the Trax pass, would be difficult for employees. Ms. Dupont said making a compensation to judges, "for fiscal year 2021 judicial officers can be included in a furlough for up to 2-3 days, potentially" may help. Judge Noonan said in 2008-2009 judges volunteered to participate in the furlough situation. Judge May said he would take furlough days equal to his clerk. Judges salaries are established by statute so to include judges in the furlough, the statute would need to be amended. The committee agreed to readdress the amounts to include judges in the furlough option. It is anticipated to be less than 12, perhaps around 8 days in a year. Mr. Drechsel noted the Constitution may be an issue with reducing a judge's salary during their term in office. The committee agreed to change this option to one day a month without judges, due to the constitution and volunteer of judges would not save the courts funds.

The committee agreed to offer at 10% a soft hiring freeze, furloughs, and layoffs. Mr. Sweeney will finalize the numbers based on this discussion and send them to the committee for a final review before sending it to Mr. Syphus. Judge May and Mr. Sweeney will review this with the Management Committee tomorrow.

Senator Kurt Cullimore will be appointed to the Justice Court Reform Task Force.

3. OLD BUSINESS/NEW BUSINESS: (All)
There was no additional business discussed.

4. ADJOURN
The meeting adjourned at 2:22 p.m.

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

WebEx Video Conferencing
May 1, 2020 - 9 a.m. – 2 p.m.

DRAFT

MEMBERS:**PRESENT****EXCUSED**

MEMBERS:	PRESENT	EXCUSED
Judge Derek Pullan, <i>Chair</i>	•	
Judge Brian Cannell	•	
Judge Augustus Chin	•	
Judge Ryan Evershed	•	
Judge John Walton	•	
Mr. Rob Rice	•	

GUESTS:

Marty Blaustein
Brent Johnson
Michael Drechsel
Nancy Sylvester
Jim Peters
Paul Barron

STAFF:

Keisa Williams
Minhvan Brimhall (recording secretary)

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the March 3, 2019 meeting. With no changes, Judge Chin moved to approve the draft minutes. Rob Rice seconded the motion. The motion passed unanimously.

(2) 4-202.02. RECORDS CLASSIFICATION:

Ms. Sylvester provided an overview. The proposed amendments to 4-202.02 would seal unlawful detainer actions in certain circumstances. When researching unlawful detainer actions, Utah Legal Services discovered several issues. Many cases are never prosecuted. Some cases were initiated in one district and then the same action was initiated in another district so it appeared the tenant had been evicted twice. Tenants should not have a searchable eviction action show up when they have not actually been evicted. This is causing the unlawful denial of housing to vulnerable populations.

Marty Blaustein: The idea behind this records classification amendment started around 3 years ago with tenants saying that they can't get into another unit or another apartment because of a bad credit history. In some cases we couldn't do much for them because the justification for the eviction was lawful. However, in other cases the tenant did what they were asked and still had an eviction show up on their credit report. Credit report data comes from the courts via public records, but that data is often missing critical information such as the disposition of the case. The tenant could have prevailed. We are seeing more and more cases where tenants' eviction records are showing up on their credit reports, and tenants have been black balled for hiring an attorney to address the issue. The Utah Legal Services Housing Task Force sent a letter to the Chief Justice on October 3, 2019 outlining our concerns. We researched cases going back to 2018 and found that 25% of cases in a one-month period seemed to be cases where the landlord did not proceed and there was no order for restitution, but the eviction sat on the record. When we did a background check, the records would show up on the report. We are proposing that eviction case be sealed when: 1) the plaintiff failed to serve the defendant within 120 days of filing, 2) the plaintiff failed to prosecute the

action, 3) the plaintiff failed to seek a default judgment within 60 days after such a judgment could have been entered, and 4) the plaintiff requested dismissal, whether or not any judgment or order was entered.

Mr. Rice: I am sensitive to this issue. Does the language sealing the records for the numerated reasons need to be restricted? Why not seal the records for substantive reasons as opposed to things in the nature of possible failures to prosecute? Mr. Blaustein: Our goal is to stay within the four corners of what we are proposing. I would suspect that we would still file motions to classify records as sealed outside of those four scenarios in a particular circumstance, but they wouldn't be sealed as a matter of course.

Ms. Sylvester: There is a concern regarding workload. After speaking to IT, sealing the records will have to be a manual process by the clerks. The IT department can generate monthly reports identifying cases that meet the requisite criteria. There may be some hesitancy in allowing a clerk to make decisions about whether or not to seal a record so that may require more thought. I suspect we would get pushback from legislators who are landlords asking why all of the records were sealed. That's another reason why we wouldn't want to seal more records than necessary.

Judge Pullan: In terms of political pushback, we would get less on cases that were dismissed on the merits. I think it would be a mistake to assume that the plaintiff's failure to prosecute was without merit. The landlord may have filed the lawsuit and shortly after the tenant conceded that he couldn't pay the rent and left. That is the outcome the landlord wanted so the case sits without further action. Sealing that record creates the false impression that the tenant was compliant with the lease. I too am sensitive to the issue and I agree that we are going to see a political response if these changes are made. This type of initiative is what drove the expungement statute. People were being unfairly hampered with an arrest on their record.

Judge Walton: I don't have a problem with the idea, but I think there are practical issues. Even if the record is sealed, can't you still see that a case was filed and the nature of the case? Ms. Sylvester: Once a case file is sealed you can't see it and it isn't searchable. It would be as if the case never existed. Mr. Rice: When a case has been sealed, would the tenants show up if a landlord is doing an Xchange search? Paul Barron: In CORIS, you can see that a case exists but you can't access it or look it up by name. It's the same in Xchange. The person's name would never show.

Judge Walton: I don't share the concern regarding making assumptions that the plaintiff filed without merit. If a file is sealed there shouldn't be an assumption one way or the other. I think it would be inappropriate to draw a conclusion unless the court wanted to do so.

Judge Cannell: If a case is dismissed for one reason or another, why wouldn't it be automatically sealed? I echo Mr. Rice. If a case was dismissed for any reason, then sealing it wouldn't matter much.

Mr. Rice: How widespread of a problem is this? Would we ever be asked to quantify it? Mr. Blaustein: In 2018, in one month, 25% of cases were eligible to be sealed based on the definitions in the proposed amendment.

Judge Pullan: One unintended consequence of this decision would be that landlords who otherwise would have been willing to let the case sit without action when a tenant agrees to move out, will now be incentivized to move the case to judgment. Judge Walton: I agree. That is not uncommon at all. I am surprised by how many times there is no further action in a case once the restitution judgment is entered. There is no request for judgment and the case ends up getting dismissed.

Mr. Blaustein: In this proposal, if an order of restitution has been issued the case would not be sealed because the order is in effect.

Judge Pullan: Under (3)(A)(v)(2) and (3), cases with a restitution order (without a request for judgement) would be sealed because they would be dismissed for failure to prosecute. The rule as it is drafted would seal them. We are creating an incentive for landlords to go in and get a judgment to create an accurate record. The tenant who

walked away because they couldn't pay the rent, who already has economic instability, is now shouldered with a judgment of unpaid rent, treble damages, and all that comes with it.

Ms. Sylvester: The purpose behind this is not failure to prosecute the action but failure to get a restitution order. If there is no restitution order it should be sealed. We could change the language to more clearly reflect that intent.

Mr. Blaustein: Looking at it from the standpoint of representing a tenant, I see the case as being prosecuted if an order of restitution judgment has been entered. I think the definition of prosecution is open to debate.

Judge Pullan: I think that "failure to prosecute" is a term of art within the court. An order of restitution is only a partial judgment. Judge Walton: We could add language to line 102 saying, "the plaintiff failed to prosecute the action and no order of restitution has been entered or issued."

Mr. Rice: What is the open records analysis on this? What is the constitutional question to be answered? Do we have a rational basis for this? Ms. Sylvester: The court is empowered under GRAMA to create its own access rules so I don't think this would run afoul of that.

Judge Pullan: Another area where we determine that records aren't being used for a legitimate purpose is expungements. When a person has an arrest on their record that never resulted in prosecution, it should be automatically expunged (line 107 – expunged records are sealed). However, that was a legislative policy. If we make the proposed amendments to this rule, I can see the legislature saying we are creating policy.

Judge Evershed: Is this something we can approach the legislature about? They reach out to us when they are proposing changes to the statute. This might be an opportunity for us to reach out to them. Ms. Sylvester: There is some merit to that. Typically when we have those discussions with the legislature, both sides are represented. Marty represents the tenant but we don't have the landlord's perspective. This could go to the Council for discussion with a request that the Chief reach out to legislative leadership to start a conversation. Judge Chin: I would suggest asking members of the legislative liaison committee to weigh in. They may have an idea about how the legislature might react.

Judge Pullan: We need to have a policy discussion with the Judicial Council before moving forward. I believe a legislative response is inevitable. We may be well served by bringing them to the table early on to have a discussion. I would like more direction from the Judicial Council. Judge Walton: I recommend taking the rule draft (with the change to line 102) to the Council for a discussion about how we move forward. At what point do we send it out for public comment?

Ms. Williams: I can ask that this issue be added to the Judicial Council's agenda as a separate item for discussion. Depending on the outcome of that discussion, we can send it out for public comment afterward.

Judge Cannell: There should be a mechanism in the rule allowing a tenant to expunge a file that affects their record.

Judge Walton moved to take the rule, with the edits to line 102, to the Judicial Council for discussion. Judge Evershed seconded the motion. Judge Cannell opposed. The motion passed.

(3) Rules 3-101, 3-104, 3-111:

- 3-101. Judicial Performance Standards – definition issue
- 3-104. Presiding Judges
- 3-111. Performance Evaluations of Senior Judges and Court Commissioners

Ms. Sylvester: These rule amendments have been circulating for a couple of years. The proposals originated from the Board of District Court Judges. The updates to Rule 3-101 establish a definition for "submitted" for purposes of

the case under advisement performance standard. The updates also provide discretion to the Council to excuse full compliance with the performance standards regarding cases under advisement and education hours for circumstances beyond the judge's control.

Judge Pullan: These amendments have been vetted by the boards of every level of the court. What drove this is the concern that a Notice to Submit can be filed and, solely due to clerical error, never be submitted to a judge. Back in September, two very similar motions were pending in my court. We received two Notices to Submit for signature (one for each motion) on the same day. My clerk assumed that both Notices were related to the same motion. I signed an order on one and she didn't catch that the second issue was still pending. It sat for six months and was never brought to my attention. Because Notices to Submit require human review they are subject to human error as well. Before this rule, the Judicial Council had no discretion. If you missed something, after 60 days it had to be reported to the Council. The Council was required to not recommend you for retention regardless of whether the issue had anything to do with the judge. The proposed rule amendment also clarifies what it means for something to be submitted for a decision. My view is to move these rule proposals forward in their current form. I think in general it is a good policy for us.

Judge Evershed moved to approve the proposed rule amendments to be sent to the Judicial Council with a recommendation that they be published for comment. Mr. Rice seconded and the motion carried unanimously.

(4) 6-506. PROCEDURE FOR CONTESTED MATTERS FILED IN THE PROBATE COURT:

Judge Pullan: This amendment changes one word, "may" to "will" in regard to scheduling pre-mediation conferences in probate cases. The fact that the rule said "will" is forcing all probate cases into pre-mediation conferences when that isn't necessary.

Judge Walton moved to approve the amendment to be sent to the Judicial Council with a recommendation that it be published for comment. Judge Cannell seconded and the motion carried unanimously.

(5) 6-507. COURT VISITORS (NEW):

Ms. Sylvester: This proposal originated with the probate subcommittee. It was meant to be part of a set of probate rules of procedure accompanied by legislation, but the bill didn't pass. The amendment sets forth the appointment and role of court visitors and establishes a process for reviewing court visitor reports. The court visitor program hasn't been codified yet and it doesn't have a mechanism for ensuring that judges see the visitors' reports and act on them where appropriate. This rule seeks to resolve those issues (see, e.g. paragraph (6)(b)).

The probate committee proposes adding this rule to the Code of Judicial Administration pending the creation of a probate rule. The committee doesn't want to wait for a probate rule because it isn't clear when that will happen and the court visitor program needs a way to ensure reports are making their way to judges. There have been instances when action was needed but the reports never made it to a judge. A Request to Submit is required, but court visitors are not parties to the case. They are an extension of the court. This rule would create a mechanism to get reports before judges. The Notice of Filing would trigger the clerk to send the report to the judge for review. (lines 49-51).

Judge Pullan: Is there a reason we can't call this a Request to Submit, rather than a Notice of Filing? My concern is that a Notice of Filing could just sit in the file unless clerks are adequately trained to treat it as a Request to Submit. If we are treating it like a Request to Submit, why not just call it that? If you call it a Notice of Filing, judges would need judicial training about how to treat the reports, which is another argument for calling them a Request to Submit.

Mr. Barron: It depends on the document type. If we call it a Request to Submit and it is submitted to the clerk for manual filing, a tracking record would be automatically created. If we call it something else, we would have to program the system to do the same thing. We could create a mechanism allowing court visitors to use the e-filing system, but right now they can scan the report and send it directly to the court.

Judge Pullan: The challenge is that not every report will be submitted to the judge for review. The filing of the court visitor report is not a paper asking the court to do anything. If there is a dispute about whether a protected person is being treated fairly or being taken advantage of, why wouldn't we leave this to the party to make a motion to do something? Ms. Sylvester: These cases are unique. The court has asked the court visitor to conduct an investigation. The court is proactively saying please go look into this. Many times the party is incapacitated and doesn't have a representative. If the report is negative about a proposed guardian, the guardian doesn't have an incentive to do anything. The court visitor program is a necessary protection mechanism, similar to juvenile cases. Many times court visitors submit detailed, multi-page reports and get concerned when a judge never sees it. When that happens, court visitors feel like the court doesn't value their work and they no longer want to participate in the program.

Judge Cannell: When I have a problem case and I request a court visitor report, I know that I am waiting for that report to determine whether I want a follow-up or hold a hearing. It doesn't matter to me if you call it a Notice of Filing or a Request to Submit. Judge Walton agreed. Judge Pullan: In the fourth district, our probate calendar is assigned to one judge to deal with undisputed matters. My fear is that one judge who is handling the probate calendar orders a court visitor to do something, the case is then disputed for other reasons and assigned to me. I would never know that the court visitor has been appointed. If the only thing in the docket is a Notice of Filing, it's just going to sit there.

The Committee changed the title of (6)(b) to "Notice to Submit for Decision," along with lines 50 and 57.

Mr. Rice: I suggest changing line 58 to say "and respond to the report" instead of issuing an order because someone could argue that the findings have to closely follow the report and the court can pick and choose items from the report. Judge Cannell: Normally I won't make any findings until I get to the hearing. Judge Walton: I don't know that we want to go down this road. Why don't we say the Notice to Submit brings it to the court's attention in any decision the court is considering? I'm not sure it requires any language that foresees some other action. It would be like any other Notice to Submit. Once a judge becomes aware that a Notice to Submit is filed, he becomes aware that a decision needs to be made. When a court visitor has filed a report with a Notice to Submit for Decision, the court will review and entertain the recommendations prior to making further decisions on the matter.

Judge Pullan: If we call it a Notice to Submit and the judge reviews it and thinks it looks fine, when does tracking end? Does the court need to submit an order that it has been reviewed and no further action is necessary to take it off tracking? Ms. Sylvester: That's what we were contemplating. The court visitor program was only going to file if it needs some kind of court response. Judge Pullan: Does the court visitor submit a proposed order, similar to the requirement in lines 52-53 involving motions to Excuse the respondent from the hearing? Ms. Sylvester: Yes, that has been part of the discussion. In cases where we are not excusing the respondent, the court visitor role is to observe and report. It would be up to the judge to call a hearing for all parties to respond. Judge Walton: Asking a non-lawyer to submit an order seems like a bad idea. Judge Pullan agreed. Judge Pullan: Whether we call this a Notice to Submit or a Notice to File, my 60 days starts running. What stops that? There needs to be an order to stop it, even an order that says I've reviewed this and no further action is needed. That may just be a training issue for the judge. Ms. Sylvester: It could be as simple as minute entry.

Judge Cannell: If all I need is basic information from the report, calling it a Request to Submit creates additional, unnecessary work because then I need to create an order. Ms. Sylvester: Under (6)(b), the Notice to Submit is only filed if the court needs to take some action. Judge Cannell: I will know when I have requested a report. The issue is after the fact and after the appointment of the guardian when a party objects to the motion or the order. If there is no pending motion, it doesn't fit the rule if I need to take an action within 60 days. Judge Walton: The more I

think about it the more I agree with Judge Cannell. Calling it a notice to submit is going to cause problems and make it more work.

Judge Pullan: My sense is that we send this back to the Probate subcommittee for further consideration. We may need a different treatment than when we are excusing a respondent from a hearing.

The Committee asked Ms. Sylvester to take the rule back to the Probate subcommittee for further consideration and bring it back to Policy and Planning in June.

(6) Rules 1-201, 3-403, 9-101, 9-109:

Jim Peters: Proposed changes to 1-201, 9-101 and 9-109 provide an alternative to conducting elections for leadership positions in the justice courts when the justice court conference is canceled. The proposed change to 3-403 authorizes the Board of Justice Court Judges to excuse judges from that conference (instead of the Management Committee). The Management Committee reviewed the proposals and recommended that the amendments be considered by Policy and Planning.

Judge Chin motioned to approve 3-403 as amended to send to the Council for approval for public comment. Judge Walton seconded and it passed unanimously.

Mr. Peters: The justice court Council member position is especially odd. The Board of Justice Court Judges elects that position at its spring conference, but the person doesn't take their seat until the annual conference in the Fall. There is a six-month lag until someone takes the position. Because the annual conference was canceled this year, we thought it might be a good time to align justice court elections with all of the others.

Judge Chin moved to approve rules 1-201, 9-101, and 9-109 as amended to send to the Council for approval for public comment. Mr. Rice seconded and the motion passed unanimously.

(7) 4-106. ELECTRONIC CONFERENCING (REPEAL):

Judge Pullan: The feeling of the Supreme Court is that this is a procedural matter and it should not be in the administrative code. The Rules of Civil Procedure Committee generally agrees given the degree that we are engaging in these kinds of conferencing efforts. Repealing this rule makes it solely a procedural question. The Rules of Civil Procedure Committee is aware that rule 4-106 will likely be repealed.

Mr. Rice moved to recommend to the Council that rule 4-106 be repealed. Judge Evershed seconded and the motion carried unanimously.

(8) SUBPOENA FORMS (POLICY QUESTION):

Judge Pullan: This issue has been bounced around amongst various parts of the judiciary and is now before us for a policy recommendation. When a subpoena goes out, the CJA requires that three forms be served along with the subpoena. A legislator approached court personnel asking why we are requiring that all of the paperwork be attached to the subpoena. According to the legislator, the county sheriffs have a hard time managing it and it makes more sense to just include hyperlinks to the three documents in the subpoena itself. The objection is that not everyone has access to a computer.

Mr. Rice: I issue a lot of subpoenas. It is not uncommon for me to get a call from people asking what they are supposed to do with them. I appreciate the cost issue and the need to tilt towards the paperless world, but I think the accompanying documents are really important pieces of information for someone not well versed in this area.

Judge Pullan: Would there be value in saying the forms don't have to be attached if the subpoena is going to a corporation, but they do if the subpoena is going to an individual? Mr. Rice: Anecdotally, these are probably routine documents for banks and schools but might not be for small businesses.

Judge Walton: I can see both sides of it. In 99% of the cases it would be sufficient to have a link in the subpoena directing people where to find more information, but I don't know that we're there yet. Judge Evershed: Even with internet access, training on how to use technology is an issue. I've had a lot of trouble with WebEx hearings. I can't explain to someone using an iPhone how to download WebEx to their phone. Some people don't even know how to access the internet.

Brent Johnson: The Forms Committee was unanimous that it was better customer service to provide all documents in paper form, at least for now. In moving to WebEx, we were surprised by the number of employees who don't have adequate access to or know how to access the internet. I would recommend not changing anything yet, keeping the status quo, and requiring that all papers be served. There isn't a huge outcry for change.

The Committee agreed and took no action.

(9) 4-208. AUTOMATIC EXPUNGEMENT OF CASES (NEW):

Judge Pullan: In March, we talked about moving forward with the easier group of automatic expungements (acquittals and dismissals with prejudice) in order to be timely in our response to legislation. The more difficult process is identifying clean slate eligible cases. Our biggest concern with all three expungement types is the accuracy of the system and whether we can measure the error rate. IT has assured us that they can conduct robust testing and they expressed a high degree of confidence in their ability to accurately identify acquittals and dismissals with prejudice. Mr. Johnson has indicated that we should adopt a rule of procedure as well. CJA rule 4-208 would cover the process by which the automated program is created and approved.

Mr. Johnson: There was some discussion at the last meeting about amending the language of the automated orders to ensure everyone was comfortable with the "findings." Judge Pullan: In the orders, the "finding" is that the requirements for automatic expungement have been met and expungement of the record is statutorily mandated. Ultimately, issuance of the auto-expungement order is authorized by the presiding judge in each district. We should set forth in the order how those findings were made and acknowledge that this is an automated process without judicial review. The Rules of Civil Procedure would be helpful in that regard. If the Supreme Court decides (like it did in rule 109) that this is the way we are going to do business, then this is how we will operate. In my opinion, this type of electronic review will always have to be supported by a rule of procedure.

Mr. Johnson: I don't know whether the Rules of Civil Procedure Committee is working on an auto-expungement rule. This might be a rule of criminal procedure. The standard could be considered civil. The rest of the Rules of Civil Procedure really don't apply. It would have to be narrowly focused. It might be better overall in the Rules of Criminal Procedure. We probably need a general expungement rule in the Rules of Criminal Procedure. Even in non-automated cases. Judge Pullan: Does rule 4-208 need to be adopted in order to comply with the statute or can we recommend that there be a Rule of Criminal Procedure instead and wait to review the forms? Mr. Johnson: In theory, you can have presiding judges start the process with standing orders until a rule is adopted. When we were addressing rule 109, one of my concerns was that the use of standing orders may conflict with the signature stamp rule. That may be an issue here as well. The Criminal Procedure Committee meets in two weeks.

Judge Pullan: I recommend that Mr. Johnson take this issue to the Rules of Criminal Procedure Committee with the understanding that Policy and Planning views this as procedure and it needs to be supported by rule. The issue can be re-addressed at the next meeting.

The Committee agreed and took no action on the rule.

(10)- Rules 1-201, 6-102, 7-101:

- 1-201. Rules for the Conduct of Council Meetings
- 6-102. Election of District Court Judges to the Judicial Council
- 7-101. Juvenile Court Board, Executive Committee and Council Representatives

During the legislative session, SB 167 passed (effective date = May 12, 2020). The bill expands the membership of the Judicial Council, adding a new district court judge member (for a total of six district court judges) and a new juvenile court judge member (for a total of three juvenile court judges). The proposed amendment to rule 1-201 would allow the seats to be filled prior to September 2020. Currently the rule reads that new members are elected if an existing member is “unable to complete a term,” which doesn’t contemplate a new seat to fill. Changing the language to “vacancy” allows for immediately filling the newly created seat via the Board’s process. In rules 6-102 and 7-101, the district and juvenile boards have identified how their seats would be allocated.

Judge Cannell: Rule 1-201 allows members to be selected prior to September when a vacancy exists. 6-102 says there will be only one representative from either 1st or 5th district. That creates a problem with the overlap between Judge Walton and me in First and Fifth districts. And there is some question about whether or not “vacancy” in the rule means a vacancy for a newly appointed seat, or a vacancy that exists for any other reason during a judge’s term.

Judge Walton’s term expires in September. I am fulfilling what’s left of Judge Allan’s term. In September I will be the continuing representative from First and Fifth, so that still works. The issue is in defining a “newly appointed member” or a “newly created” seat. If we fix that, it’s resolved in the short term but I don’t know how it will work as we make changes in the future. Mr. Rice: Including language that addresses a one-time issue is better than a constitutional challenge to a rule we make five years from now. Judge Pullan agreed stating that newly created seats are rare.

Judge Cannell: I think the change should be captured in a separate paragraph because it doesn’t fit the language proposed in (3)(A). It’s not a vacancy; it’s just a newly appointed seat. The first sentence in line 20, section (3)(A), should be changed to, “Election of Council members, to include newly appointed seats, shall take place at the Annual Judicial Conference.”

Judge Evershed: Are we anticipating that new members won’t join until September? If we are changing the rule to say that the election will be held at the annual meeting, then appointments won’t happen until the Fall. If we are changing the rule to say that we are adding new seats on the Judicial Council then I say we do it as soon as possible after the legislative session ends. Judge Cannell: The problem is that John and I are serving simultaneously in the First and Fifth District from now until September. It’s unclear whether the Council anticipated having new folks join at its May meeting or at the annual conference. My sense is that new members’ terms would start at the annual meeting. We need to try to be consistent with the old rule. As far as the new designations in 6-102, my expectation is that I will fulfill the original three-year term left over from Judge Allan and the fifth district representative would join when my term is finished. We can alternate from there. When there are multi-district seats, it can be resolved at the district level. My term ends in September 2021.

After discussion, the Committee decided to hold off on moving forward with Jim Peters’ proposals to 1-201 (lines 16-18 and 23-24) and Mike Drechsel’s proposal (lines 21-22) until all amendments are ready. Ms. Williams will let Mike Drechsel know about the committee’s concerns and ask that they be addressed in a new revised draft. All three rules will be back on the June agenda.

(11) OLD BUSINESS/NEW BUSINESS:

None

(12) ADJOURN:

With no further items for discussion, the meeting was adjourned without a motion. The meeting adjourned at 11:11 am. The next meeting will be on June 5, 2020 at 12 (noon) via WebEx Video Conferencing.

Tab 3

Agenda

FY 2021 Carryforward and Ongoing Turnover Savings Requests						
Total Available Funds					\$ 3,015,400	\$ 2,670,900
#	Budget Obligations	Requested		Approved by Legislature		
		One Time	Ongoing	One Time	Ongoing	
	HB002 Salary Increases (main line item only)		\$ 972,000		\$ 972,000	
	HB002 Commissioner Recruitment and Retention		\$ 92,500		\$ 92,500	
	HB002 Child Welfare Mediator		\$ 54,900		\$ 54,900	
	HB002 Information Technology Enhancements	\$ 450,000	\$ 932,000	\$ 450,000	\$ 932,000	
	HB206 Bail and Pretrial Release Amendments (in HB003)	\$ 63,000	\$ (13,000)	\$ 63,000	\$ (13,000)	
	HB288 Prosecutor Data Collection Amendments (in HB003)	\$ 2,400	\$ 33,000	\$ 2,400	\$ 33,000	
	Fiscal Notes - Various			\$ -	\$ (500)	
	Subtotal			\$ 515,400	\$ 2,070,900	
				Approved by Jud. Council		
	Ongoing Turnover Savings - Total Available as of 5/1/2020 - \$600,000		\$ 600,000			
#	Previous Council Priorities Unfunded by Legislature - Ongoing					
1	<i>Self Help Center-Bring 5 employees to full time**- recommend funding through Ongoing Turnover Savings</i>	n/a	\$ 109,800		E	
	Recommended Essential Spend					
	Council Deferrals from August 2019 - Ongoing					
	<i>Public Outreach / Education Coordinator Will be Presented as a 2022 request</i>	n/a	\$ -			
	<i>Two 3rd District Problem Solving Drug Court Clerks Request Withdrawn by Requester</i>	n/a	\$ -			
	Ongoing Turnover Savings - FY 2021 Requests					
	2021 Total Compensation Proposal (will be presented in June Judicial Council Meeting)	n/a	n/a			
	Subtotal Recommended Essential	\$ -	\$ 109,800			
	Balance Remaining from Ongoing Turnover Savings	\$ -	\$ 490,200	\$ -	\$ -	
	Carryforward spending requests - Total Available \$2,500,000	\$ 2,500,000				
2	PSA Calculation Cost for Incuding NCIC "Hits" (Legal)	\$ 198,014			E	
3	ICJ Operations Funding (Dues/Training and travel/Extradition) (Neira Siaperas) (\$24,000 approved last year - 1x)	\$ 20,000			E	
4	Divorce Ed for Children Video - Teen Website (carry forward of remaining grant balance) (Public Information)	\$ 18,000			E	
5	Utah Code & Rules for judges (Law Library) (\$54,069 approved last year - 1x) RULE CHANGE	\$ -			E	
6	Secondary language stipend (HR) (\$65,000 approved last year - 1x)	\$ 65,000			E	
7	Matheson Courthouse carpet repairs (select replacement with carpet tiles) (Facilities)	\$ 20,000			E	
8	Time-limited Law Clerks (2 FTEs) (Shane Bahr) (\$190,650 approved last year - 1x)	\$ 191,200			E	
	Subtotal Recommended Essential	\$ 512,214				
9	IT Unfunded Mandates (Researching funding through CCJJ)	\$ 337,500				
10	Education Leadership and Court Skills Academy (Education)	\$ 25,500				
11	Castledale Enhancements (7th District)	\$ 28,000				
12	Moab Courthouse Improvements (7th District)	\$ 12,000				
13	Supplemental Judicial operations budget (Finance Director) (\$70,000 approved last year - 1x)	\$ 70,800				
14	Employee incentive awards (Awards and taxes) (HR) (\$260,000 approved last year - 1x)	\$ 260,000				
15	Employee educational assistance (HR) (\$42,000 approved last year - 1x)	\$ 75,000				
	Subtotal Other Requests	\$ 808,800				
	Total Requested from \$2.5M One-time Carryforward	\$ 1,321,014	\$ -	\$ -	\$ -	
	Balance Remaining	\$ 1,178,986		\$ 2,500,000	\$ 600,000	
LEGEND						
** Numbers are updated to current expected costs.						
<i>Items italicized in blue represent items prioritized or deferred by the Council in August 2019 or unfunded by the legislature in FY 2020</i>						
<i>Items in red represent funding identified by the Legislature for a specific purpose</i>						
E = Recommended by Budget and Finance Committee as Essential Spending						



FY 2021 Judicial Council Spending Plan

Available Funding	Funding Type	One Time	Ongoing
Carryforward Savings from FY 2020	Internal savings	\$ 2,500,000	
Turnover Savings (estimated as of 5/1/2020)	Internal savings		\$ 600,000
HB002 Salary Increases (main line item only)	Appropriation		\$ 972,000
HB002 Commissioner Recruitment and Retention	Appropriation		\$ 92,500
HB002 Child Welfare Mediator	Appropriation		\$ 54,900
HB002 Information Technology Enhancements	Appropriation	\$ 450,000	\$ 932,000
HB206 Bail and Pretrial Release Amendments (in HB003)	Fiscal Note	\$ 63,000	\$ (13,000)
HB288 Prosecutor Data Collection Amendments (in HB003)	Fiscal Note	\$ 2,400	\$ 33,000
HB139 DUI Liability Amendments (in HB003)	Fiscal Note		\$ 1,400
HB196 Domestic Relations Debt (in HB003)	Fiscal Note		\$ 44,300
HB238 Crime Enhancement Amendments (in HB003)	Fiscal Note		\$ (500)
HB243 Warning Labels Amendments (in HB003)	Fiscal Note		\$ 200
HB247 Unlawful Sexual Activity Statute of Limitations Amendments (in HB003)	Fiscal Note		\$ 8,300
HB262 Juvenile Delinquency Amendments (in HB003)	Fiscal Note		\$ (55,000)
HB033 Abuse, Neglect, and Dependency Proceedings Amendments (in HB003)	Fiscal Note		\$ 800
Total Available Funds		\$ 3,015,400	\$ 2,670,900

LEGEND

Items italicized in blue represent items prioritized or deferred by the Council in August 2019

Items in red represent funding identified by the Legislature for a specific purpose

1. 2020 Carryforward Spending Request – Funding Self-help Center

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

Date: April 6, 2020

Department or District: Utah State Law Library

Requested by: Nathanael Player, Self-Help Center

Request title: Continuing Full-Time Funding for the Self-Help Center

Amount requested: **One-time \$109,791 or**

Ongoing \$109,791 Recommended due to legislature inaction.

Purpose of funding request:

This funding request has two related components. The Self-Help Center (SHC) requests:

1. Provide ongoing permanent funding to continue full time status for the 5 Self-Help Center staff attorneys;
2. If permanent funds are not available, provide one-time funds to allow the Self-Help Center to continue to operate full time for one more year.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Summary and Background

SHC makes the courts more open, fair and efficient. SHC helps unrepresented litigants by directly answering people's questions, developing materials to help unrepresented parties (who are the majority of litigants in our court system), and providing training to enhance our impact. This reduces confusion, yields substantive outcomes instead of ones based on technicalities, decreases unnecessary filings, and saves time for judges and court staff.

On May 20, 2019, the Council approved one-time funds to allow SHC to pilot full time status. This money will run out on June 30, 2020. The Council approved funding SHC as a building block request to the legislature for the 2020 session as the courts' second priority. Unfortunately the legislature did not fund SHC. This request asks for funding to allow SHC to continue to operate full-time.

Outcomes

SHC primarily helps people via phone, email and text. These interactions are considered "contacts" and each one is logged. This data is used to prepare monthly reports, which are reviewed by the SHC director. Below are highlights from FY 2019:

1. 2020 Carryforward Spending Request – Funding Self-help Center

- 21,495 total contacts – the highest number ever for the Self-Help Center
- 10,113 calls answered and 34,221 calls missed (a 70% missed call rate)
- 6,273 emails
- 4,311 texts
- 109 average contacts per day

Additional staff hours are needed to meet the overwhelming demand for SHC services. SHC has become fundamental in assisting unrepresented parties. Court staff, legal services and social service providers rely on SHC to be the primary triage point for unrepresented litigants because no one else can provide SHC's innovative and wide-ranging services. Free and available statewide, SHC helps unrepresented parties with any case type at any procedural level.

SHC piloted Friday open hours in FY 2020. We continue to gather data, but currently SHC is averaging 1,997 contacts per month. If this trend continues through the rest of the year we expect to have 23,964 contacts for FY 2020. This would be a record for SHC and seems tied to Friday open hours. Meanwhile, our average number of contacts per day has decreased, suggesting that Friday open hours help to ameliorate the difficulty callers have when trying to reach SHC.

SHC Operations Unaffected Due to Pandemic

SHC operations have been largely unaffected by COVID-19. Because our model is virtual, assistance can be given to, and provided from, anywhere. Our team is all telecommuting right now and 100% of our services are available to the public. When Matheson was evacuated on March 18 due to the earthquake, SHC staff went home and resumed answering phone calls, texts and emails.

In this time of pandemic, other jurisdictions are rushing to develop models that can provide assistance to court patrons from afar. Our court system has not missed a beat in providing self-help services because of our well-developed model. Epidemiologists anticipate that COVID-19 will continue to affect us for another 12 to 18 months. Continuing to fund SHC for full-time service can help the courts remain open, fair and efficient in these challenging times.

SHC has been offering a training program for Judicial Assistants (JAs) that is almost entirely virtual since 2016. Social distancing has required in-person training to cease. SHC has still been able to provide its training program and has seen an increase in demand for our training given that many JAs are working from home or have fewer responsibilities due to the cancellation of many hearings.

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

If this funding is not received the SHC will not be able to remain open on Fridays. This would mean a reduction in service in this time of social distancing.

2. FY 2020 Carryforward Spending Request – Operationalize Public Safety Assessment to Include Out-of- State “Hits”

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

Date: 4/28/2020

Department or District: AOC General Counsel

Requested by: Keisa Williams

Request title: Operationalize Public Safety Assessments to Include Out-of-State “Hits” from the FBI national criminal history data base. **The contract in Option 1 can be terminated at any time without cause, including on the basis of unavailable funds.**

Amount requested: **One-time \$ 198,014 (year 1)**

Ongoing \$ 201,914 (year 2)

Purpose of funding request: This request seeks to operationalize the issuance of Public Safety Assessments (“PSAs”) for persons who have an out-of-state criminal history record queried from the FBI’s national criminal history database. Because of incompatibilities between the Utah probable cause (“PC”) system and the FBI database, an automated PSA in the event of a “hit” on a person with an out-of-state criminal history (approx. 30% of cases) cannot occur without a review by someone who can interpret the out-of-state information and rescore the PSA. This request seeks to fund this service.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

As part of the one-time carryforward for FY 2020, the Judicial Council allocated \$392,700 to complete various programming projects to improve the functionality of the automated probable cause (“PC”) system and to increase the number of Public Safety Assessments (“PSAs”) available to judges. The new programming will be completed by June 30, 2020.

The largest piece of this project was to address the issue related to out-of-state criminal history information received by the Court. When attempting to auto-generate a PSA, the system queries the FBI’s national criminal history database. Unfortunately, nearly all of the information received from other states is incomprehensible to our systems. When that happens, we cannot generate a PSA. In order to resolve the issue, a human must review and interpret any out-of-state “hit” and rescore the PSA.

Upon receipt of a probable cause affidavit (PC), the system will calculate a PSA using Utah data first. It will then query the national database. If there is a “hit” from another state, the PSA will be sent to a queue. A human will need to check the queue, pull up the national criminal history information, interpret that information, and change the PSA score when appropriate. The PSA would then be automatically re-generated and sent electronically to judges alongside PCs just as they are now.

2. FY 2020 Carryforward Spending Request – Operationalize Public Safety Assessment to Include Out-of- State “Hits”

Because this process requires human intervention, the Court will need to allocate ongoing funding for the personnel needed to conduct calculations on a 24/7/365 schedule. Our team researched two potential options:

Option 1: Contracting with Salt Lake County Criminal Justice Services (“CJS”), and

Option 2: Using court employees

Option 1 – Contract with CJS

Pros:

- CJS’s pretrial services is already staffed on a 24/7/365 basis
- CJS employees are trained in interpreting criminal histories
- CJS employees possess all requisite BCI and NCIC certifications and are regularly trained by CJS
- Incremental workload will require only 2 added FTEs resulting in lower cost than Option 2
- Dedicated staffing means CJS employees will continuously monitor the queue for new cases that need analyzing

Cons:

- CJS requires a 5-year contract with the Court to ensure employee stability

Costs -

Year 1 - \$198,014

Year 2 - \$201,914

Year 3 - \$207,946

Year 4 - \$216,114

Year 5 - \$220,557

5-year Total - \$1,044,545

Option 2 – Staff with Court Employees

Pros:

- AOC directly controls staffing and thus can use a variety of personnel seeking those who have (1) less than full time workloads or (2) can work before and after their regular FT work hours as “on-call”
- Not locked into 5 year contract

Cons:

- AOC operational staffing does not lend itself to a 24 hour operation
- To enable AOC staffing to do their “day jobs” further programming is needed to develop an on-call scheduling function that electronically notifies the appropriate AOC personnel when a case is in the queue. These additional programming costs are estimated to be \$262,500.

2. FY 2020 Carryforward Spending Request – Operationalize Public Safety Assessment to Include Out-of- State “Hits”

- AOC must provide start-up costs including PCs and continuing IT technical support
- Managing staffing, auditing work product, performing performance evaluations, ensuring BCI and NCIC certifications and the training to maintain these certifications are kept up-to-date will require a manager and result in more FTEs than Option 1
- Actual costs are difficult to estimate and will likely fluctuate depending on what employees sign up to do the work from week-to-week, including coverage when someone is sick or on vacation. This would likely be very challenging from an HR and finance perspective.
- Not all TCEs and Clerks of Court are supportive of this idea.

*Costs – **Costs would increase with COLA increases, but the numbers are really difficult to estimate. Employees would receive on-call pay when scheduled, but we don't have a base salary to start with because we don't know which employees would be doing the work. It could be a JAIL or a clerk of court depending on availability and coverage. All of the numbers below are rough approximations.*

Year 1 - \$532,206

Year 2 - \$233,586

Year 3 - \$233,586

Year 4 - \$233,586

Year 5 - \$233,586

5-year Total - \$1,466,550

Recommendation: After careful consideration, our team recommends that the Judicial Council contract with Salt Lake County Criminal Justice Services (Option 1) to conduct all manual calculations statewide, and that the money be allocated in time to begin using the new system as soon as it goes live on June 30th with one-time money for FY 2021 and ongoing funding for FY 2022 and beyond.

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy? \$400,000 will have been wasted with programming capabilities that cannot be utilized. PSAs will not be generated on individuals with out-of-state criminal history. That is a critical portion of the population and excluding that population would result in a substantial negative impact on the efficacy of the Harvard Law School Access to Justice Lab's randomized control trials in Davis, Morgan, Weber, and Utah counties.

Most significantly, the new requirements for setting bail under HB 206 and emerging pretrial caselaw make PSAs essential tools for judges. The lack of ongoing funding will result in a 30% reduction in the availability of PSAs, making pretrial release decisions very difficult.

Encl. Detailed cost estimates

AOC	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
<i>Hardware</i>						
Internet	400	400	400	400	400	2,000
Computer supplies 280 x 4	1,120					1,120
Telecommunication equipment	280	280	280	280	280	1,400
<i>Software</i>						
Office (270), Adobe (335), Word and Excel (120)=725x2	2,900	2,900	2,900	2,900	2,900	14,500
Development time (On-Call/Notification System)	262,500					262,500
Ongoing maintenance	30,000	30,000	30,000	30,000	30,000	150,000
<i>Facilities</i>						
Servers	70,000	70,000	70,000	70,000	70,000	350,000
Database	12,000	12,000	12,000	12,000	12,000	60,000
<i>Operating</i>						
Infrastructure (IT Help desk)	20,000	20,000	20,000	20,000	20,000	100,000
Admin	25,000	25,000	25,000	25,000	25,000	125,000
Software (custom)	35,000					35,000
<i>Other</i>						
Training of employees (pre-implementation) (BCI and PSA cert)	500	500	500	500	500	2,500
<i>Hardware/Software</i>						
Software maintenance and upgrades	35,000	35,000	35,000	35,000	35,000	35,000
Laptops (incremental to the project)	12,000	12,000	12,000	12,000	12,000	12,000
<i>Personnel</i>						
Operations						0
On Call pay	25,506	25,506	25,506	25,506	25,506	127,530
**(\$17.47 X 24 hrs X 365/12 = \$12,753)	Assuming 4 people will take .5 of on call load (0.5 x 4 = 2) (\$17.47 = JAll @ low range)					
TOTAL COSTS	532,206	233,586	233,586	233,586	233,586	1,466,550

SL County	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
<i>Hardware</i>						
Internet						0
Computer supplies						0
Telecommunication equipment						0
<i>Software</i>						
						0
						0
						0
<i>Facilities</i>						
						0
						0
<i>Operating Cost</i>						
Infrastructure (IT Help desk)						0
Admin 10%	18,001	18,356	18,904	19,647	20,051	94,959
One-Time Operating	1,778			1,778		3,556
<i>Other</i>						
Training of employees (pre-implementation) (BCI and PSA cert)						0
<i>Hardware/Software</i>						
Software maintenance and upgrades						0
Desktops (incremental to the project)						0
<i>Personnel</i>						
Operations	785	785	785	785	785	3,924
FTE's (accounts for 3% COLA increases)	177,450	182,773	188,257	193,904	199,721	942,106
Overtime (Sick/Holiday)						0
TOTAL COSTS	198,014	201,914	207,946	216,114	220,557	1,044,545

3. FY 2020 Carryforward Spending Request – Juvenile Court – Interstate Compact for Juveniles

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: April 30, 2020

Department or District: Juvenile Court

Presented by: Neira Siaperas, Juvenile Court Administrator

Request title: Interstate Compact for Juveniles (ICJ) Operations Funding

Amount requested: \$20,000

- \$17,000--Annual Dues
- \$3,000--Extradition Expenses

Purpose of funding request: Funding for mandatory Interstate Compact for Juveniles (ICJ) annual dues and other expenses related to administration of the ICJ office.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

- In past years, Federal JABG funds supported the payment of national ICJ dues, but JABG dollars are no longer available. Therefore, other funding is necessary to support ICJ dues which are currently assessed at \$17,000/year. This amount is calculated based on the criteria outlined in ICJ Rule 2-101 (attached) and the calculations for each state are revised every five years. Next calculation will occur in FY21.
- As a member of the Interstate Compact for Juveniles, the state of Utah is responsible for working with other states to return runaway/absconded youth to his/her home state, including home to Utah. Although the financial obligation rests with the parents, in some instances parents are unable to pay for the child's return. The request for \$3,000 enables Utah to comply with return timeline requirements when other logistical or financial return options are unavailable.

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy? Utah's ICJ dues are obligated by law, 55-12-108(2), and if unpaid, Utah would default on the ICJ and additional fines may be levied. If extradition funds are not approved, it would hinder Utah's ability to comply with the ICJ in cases where a Utah family cannot pay for the return of their child.

3. FY 2020 Carryforward Spending Request – Juvenile Court – Interstate Compact for Juveniles

Attachment (ICJ Rule 2-101):

Section 200 General Provisions

Rule 2-101: Dues Formula

1. The Commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least thirty (30) days prior to the Commission meeting at which the proposed revision will be considered.
2. The Commission shall consider the population of the states and the volume of juvenile transfers between states in determining and adjusting the assessment formula.
3. The approved formula and resulting assessments for all member states shall be distributed by the Commission to each member state annually.
4. The dues formula shall be — (Population of the state / Population of the United States) plus (Number of juveniles sent from and received by a state / total number of offenders sent from and received by all states) divided by two.

History: Adopted December 2, 2009, effective March 1, 2010

4. FY 2020 Carryforward Spending Request – Divorce Education Teen Website (Bar Grant)

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however **the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.**

Date: 2/27/20

Department or District: Divorce Education for Children (2441)

Requested by: Geoff Fattah

Request title: Carry Forward Bar Foundation Grant for Teen Website Development

Amount requested: **One-time** \$18,000

Ongoing \$ 0

Purpose of funding request: Carry Forward remaining Bar Foundation grant balance of \$18,000 to FY2021.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The Bar Foundation supplied the Divorce Education for Children Program \$20,000 to develop an educational website for teens experiencing parental separation. Attempts to develop this website have been delayed due to staff turnover. However, we believe we are ready to begin development in FY2021.

Alternative funding sources, if any:

The grant provides the funds and this request is merely to carryforward the grant monies into FY 2021. If not used, the grant monies will be returned.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

If the request is not granted, we will have to report back to the Bar Foundation that the money was allocated for purposes other than originally intended. This will result in the Courts giving the money back to the Bar Foundation.

5. FY 2020 Carryforward Spending Request – Utah Code and Rules

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: April 29, 2020

Department or District: State Law Library

Presented by: Jessica Van Buren

Request title: Utah Code and Utah Court Rule books for judges

Amount requested: (One time) \$0 – The Budget and Finance Committee recommends a suspension of CJA 3-413 (2)(B) (see below for Rule) during this budget crisis and the providing of a copy of the Utah Code (unannotated) and Utah Court Rules (annotated) to all 150 Courtrooms instead of all Judges/Sr. Judges.

Purpose of funding request:

To pay for Utah Code (annotated and unannotated) and Utah Court Rule annotated books for judges.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The State Law Library manages the print subscriptions to the Utah Code (annotated and unannotated) and Utah Court Rules annotated for judges. CJA 3-413 provides that each district, juvenile and appellate court judge can have one annotated set and one unannotated set of Utah Code, or two sets of unannotated code, and one set of court rules annotated. Senior judges can have one set of unannotated code. Court commissioners and staff attorneys also can have some books under the rule.

- The estimated cost for the annual update to the annotated Utah Code is \$750. The current order for annotated code is 47 sets, for a cost of \$35,250.00.
- The estimated cost for the 2020 unannotated Utah Code is \$206.00. The current order for unannotated code is 201 sets, for a cost of \$41,406.00.
- The estimated cost for the Utah Court Rules Annotated is \$106.00. The current order for annotated rules is 160 sets, for a cost of \$16,960.

The cost for all of these subscriptions in FY 2021 is estimated to be \$93,616.

The appropriated base budget includes \$49,000 toward this expense. An additional \$44,616 would be needed to pay for subscription for all judges (District, Juvenile, Senior, and Appellate) and select AOC personnel.

As an alternative to this request, the Budget and Finance Committee recommends ordering one set of unannotated code and one set of annotated court rules for each courtroom. This would cost \$312.00 per courtroom. There are 150 courtrooms. Total cost for this option would be \$46,820 with no need for additional funding.

5. FY 2020 Carryforward Spending Request – Utah Code and Rules

Another alternative the Council could consider is to eliminate all print subscriptions. Judges could access Utah court rules and statutes via Westlaw. A judge could purchase print subscriptions using their Judicial Operations Budget. This option would save \$46,820 from the general fund base budget.

The legislative financial analyst has recommended this as a potential base budget reduction.

Alternative funding sources, if any:

N/A

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

There will not be enough funding to pay for all of the book subscriptions

Rule 3-413. Judicial Library Resources.

Intent:

To establish minimum standards for legal reference materials to be provided to judicial and quasi-judicial officers and court employees.

To establish acquisition, distribution and budgetary responsibilities for the legal reference materials identified in this rule for the state law librarian.

To realize financial advantages through the use of high volume purchases of regularly used legal reference materials

Applicability:

This rule shall apply to the state law library, all judges and commissioners of courts of record and not of record, and all court employees.

Statement of the Rule:

(1) State law library.

(1)(A) The state law library shall be supervised and administered by the state law librarian under the general supervision of the Appellate Court Administrator.

(1)(B) The state law librarian shall facilitate the purchase of the electronic research resources and print publications authorized by this rule and arrange to have them distributed in accordance with this rule.

(2) Responsibility for providing judicial library resources.

(2)(A) Electronic research resources.

(2)(A)(i) The state court administrator shall provide access to approved electronic research resources, including commercial legal databases.

(2)(A)(ii) All judges of courts of record, judges of courts not of record, court commissioners, and staff attorneys shall have access to these electronic research resources. Other employees may receive access to these resources based upon a demonstrated need and supervisor authorization.

5. FY 2020 Carryforward Spending Request – Utah Code and Rules

- (2)(B) **Print publications.** The following officials or locations are authorized to receive print publications, which shall be provided by the state court administrator, unless specifically noted below, as follows:
- (2)(B)(i) **Judges of courts of record:**
- (2)(B)(i)(a) one set of the Utah Code Annotated, one set of the Utah Code Unannotated, and one set of the Utah Court Rules Annotated; or
- (2)(B)(i)(b) two sets of the Utah Code Unannotated and one set of the Utah Court Rules Annotated.
- (2)(B)(ii) **Court commissioners:** two sets of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (2)(B)(iii) **Active senior judges:** one set of the Utah Code Unannotated, paid for by the Administrative Office of the Courts.
- (2)(B)(iv) **Staff attorneys:** one set of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (2)(B)(v) **Courts without a permanently-sitting judge:** two sets of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (2)(C) **Publisher's complimentary copies.** The publisher of the Pacific Reporter currently provides complimentary volumes to appellate judges as of the date of the judge's appointment to the appellate court. The state law librarian shall coordinate the distribution of these materials with the judges and the publisher.
- (2)(D) **Counties.** Each county shall provide a current copy of either the Utah Code Annotated with annual updates or the softbound Utah Code Unannotated to each county justice court judge serving within that county. Each county operating a court of record under contract with the administrative office of the courts shall provide the judge with access to the local law library pursuant to Section 78A-5-111.
- (2)(E) **Municipalities.** Each municipality shall provide a current copy of either the Utah Code Annotated with annual updates or the softbound Utah Code Unannotated to each municipal justice court judge serving within that municipality. Each municipality operating a court of record under contract with the administrative office of the courts shall provide the judge with access to the local law library pursuant to Section 78A-5-111.
- (2)(F) Administrative office of the courts. The administrative office of the courts shall provide a Justice Court Manual, updated biannually, to each judge of a court not of record.
- (3) **Budget Procedures.**
- (3)(A) The state law librarian shall separately account for:
- (3)(A)(i) the operating budget for the state law library;
- (3)(A)(ii) the costs associated with access to electronic research resources in subsection (2)(A); and
- (3)(A)(iii) the costs associated with the purchase of print publications in subsection (2)(B).
- (3)(B) Funds appropriated or allocated for purchasing in accordance with subsections (2)(A) and (2)(B) shall not be used to supplement the appropriation to the state law library.
- (3)(C) The purchase of electronic research resources and print publications to fully implement the provisions of this rule shall be limited by the availability of funds.
- (3)(D) Any publication purchased with public funds shall be the property of the court and not the property of any official. Publications provided to an official without charge to the state shall be the personal property of the official.

Effective May 1, 2019

6. FY 2020 Carryforward Spending Request – HR – Secondary Language Stipend for FY 2021

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 4/21/2020

Department or District: Human Resources
Presented by: Bart Olsen

Request title: Secondary Language Stipend

Amount requested: One Time: **\$65,000**

Purpose of funding request:

There is a great diversity in languages spoken by court patrons. In order to facilitate court proceedings for non-English speaking patrons, the Utah Courts employs court interpreters or utilizes the foreign language talents of current court employees. Over the past year less than 50 employees received this stipend. There are 64 slots available for this stipend. However, not all slots are filled so we are requesting the historical average spend (\$65,000), not the maximum theoretical spend (\$83,200) if all slot are filled for the entire year.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Any court employee may apply for a second language stipend by demonstrating a required level of proficiency for a non-English language. In order to qualify for this benefit, employees must complete the following process:

- Complete the Second Language Stipend application and Agreement with the appropriate information and approving signatures and submit to the Court Interpreter Program Coordinator; and
- Complete and pass the Oral Proficiency Exam.

Second language stipends are currently \$50 per pay period. Employees are required to recertify their skills no less than once every three years. A stipend recipient is subject to the following guidelines:

- The employee must be reasonably available and use the second language skills on a regular basis.
- The employee shall provide interpreting in a Court proceeding only as outlined in Rule 3-306(11).

Alternative funding sources, if any: This funding is not included in our base budget and the courts have traditionally used carry forward funds to provide this stipend.

If this request is not funded at this time, what are the consequences or is there an alternative strategy? Interpretation services to court patrons could decline as fewer qualified interpreters are available.

7. FY 2020 Carryforward Spending Request – Matheson Carpet Replacement

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 5/1/2020

Department or District: Facilities

Presented by: Chris Talbot

Request title: Matheson Carpet Replacement – Emergency Replacement of Worn Carpet

Amount requested: **\$20,000**

Purpose of funding request:

The original 22 year old carpet in Matheson is long past the industry standard replacement cycle. Excessive wear and carpet seams coming unglued whenever the carpet is cleaned are creating safety issues. This request was originally for 120,000 SF of replacement carpet tiles excluding installation. Due to HJR 301, this request has been modified to install carpet tiles currently in inventory as situations develop in Matheson that repairs will not be possible due to thinning carpets. The new carpet tiles will match what has been installed in the Appellate Court clerk's area and in other newly carpeted areas.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

This request starts the replacement process of the existing +/-250,000 SF of carpet in Matheson and resolve safety issues going forward. Facilities will evaluate and replace any areas which present safety issues that cannot be repaired and still keep the current carpet in place. This request will provide sufficient funds to replace carpet with carpet tiles in 2 courtroom sized areas.

Alternative funding sources, if any:

Due to the same budget-cutting exercise we face, Facilities (DFCM) is evaluating whether they can provide \$350,000 in Capital Improvement funding in FY 2021 that can be used for purchasing carpet tiles or installation of our existing 60,000 feet of carpet tiles in inventory. If approved, we could use all of the DFCM FY 2021 Capital Improvement funding of \$350,000 to install our 60,000 sf of carpet tiles in inventory purchased with Court's Facilities money in FY 2019.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Worn carpet that is bubbling, rolling, and has seams coming apart is unsafe and creates tripping hazards.

8. FY 2020 Carryforward Spending Request – BDCJ Request for Two District Court Law Clerks

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

Date: 4/17/2020

Department or District: Board of District Court Judges

Requested by: Shane Bahr, District Court Administrator

Request title: District Court Time-Limited Law Clerks (Continuation of Funding)

Amount requested: One-time \$ 191,200 The Budget and Finance Committee recommends approving one-time funds as it preserves ongoing turnover money that can be used to reduce our FY 2021 budget cuts and these law clerks were hired with the understanding their positions would be time-limited.

-OR-

Ongoing \$ 191,200

Purpose of funding request: The purpose of this request is to secure One-time funding **OR** Ongoing funding for two existing time-limited law clerk positions.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The Board of District Court Judges has been charged with the distribution of district court law clerk resources. As of February 1, 2020 there are thirty-one Law Clerk positions allocated in district courts across the state. Attached you will find a document showing where law clerk positions are located and the law clerk to judge ratio in each district. Of the thirty-one law clerk positions, twenty-nine positions are funded through general funds and the equivalent of two full-time positions are funded with one-time funding. These two positions have been paid by one-time funding since 2015.

Historically, the Board has sought one-time funding, year to year, in order to maintain the number of law clerk positions until there were adequate ongoing funds to transition law clerk positions to permanent funding. Due to budget constraints for ongoing funds, this request is seeking one-time funding to maintain the thirty-one district court law clerk positions currently in existence, though the BDCJ would also accept on-going money should the Judicial Council elect to do so. This request does not increase the total number of district court law clerk positions.

The Board of District Court Judges strongly recommends that the law clerk positions, currently funded with one time funds, be converted to permanent, ongoing funding.

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

8. FY 2020 Carryforward Spending Request – BDCJ Request for Two District Court Law Clerks

The Board of District Court Judges is not aware of any alternative funding strategies. If this request is not funded two existing law clerk positions will be eliminated effective June 30, 2020 and the ratio will increase from 1 law clerk for every 2.5 judges to 1 law clerk for every 2.65 judges.

Law Clerk to Judge Ratio

4/20/2020

Law Clerk to Judge Ratio FY2020			
District	# Law Clerk	# Judges	Ratio
1	2	4	1 : 2
2	6	14	1 : 2.3
3	12	31	1 : 2.6
4	5.5	13	1 : 2.4
5	2.5	6	1 : 2.4
6	1	2	1 : 2
7	1	3	1 : 3
8	1	3	1 : 3
State	31*	76	1 : 2.5

Projected LC to Judge Ratio FY2021			
District	# Law Clerk	# Judges	Ratio
1	2	4	1 : 2
2	6	14	1 : 2.3
3	12	31	1 : 2.6
4	5.5	13	1 : 2.4
5	2.5	7**	1 : 2.8
6	1	2	1 : 2
7	1	3	1 : 3
8	1	3	1 : 3
State	31*	77	1 : 2.5

*Includes two positions that are funded on a one-time basis effective FY 2015. Regardless of whether they are supported by permanent or one-time funds, all law clerk positions are considered time-limited for purposes of posting. The Board does not designate positions as either time-limited or permanent. See May 2011 Board meeting minutes.

** Reflects the transition of one third district juvenile court judge position, upon retirement, to the fifth district court as approved by the FY2020 legislature.

9. FY 2020 Carryforward Spending Request – IT – Development Costs for Unfunded Mandates

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

Date: 4/22/20

Department or District: Information Technology

Requested by: Heidi Anderson

Request title: Fund Legislative Bills with Unfunded Mandates

Amount requested: One-time \$ 337,500 (see HB 206 for CCJJ funding potential for part of ask) The Budget and Finance Committee recommends waiting to see if CCJJ funding can be obtained for \$180,000 of this request and to see if Court budget reduction discussions present an opportunity to obtain the unfunded mandate money.

Ongoing \$ 0

Purpose of funding request: Legislative bills are not always passed with adequate funding to implement them. The following bills were passed without the funding to make necessary programming changes. Below is a list of bills that passed with the funding we have been given. There were 2 additional projects where funding was not approved/given and the courts were going to ask for Grant or carry-over funding to support. If budget cuts happen and funding is not received on these projects IT will be unable to complete.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

HB 206 – Judges must take into consideration a person’s ability to pay when setting bail. IT to build a calculator that shows amount to set by asking monthly income, family size, and rent. These program changes will cost \$180,000. **Michael Drechsel is working with CCJJ to obtain Federal CARES grant funding for these amounts. Michael is optimistic these funds will be approved. Timing of the receipt of the funds is uncertain.** Other parts of HB 2016 will require funding in excess of the amounts given by the legislature in the amount of \$27,000 one-time funding. No opportunity for grant funding on this amount.

HB 291 – Vacature/Human Trafficking – \$90,000 in development funding needed. No opportunity for grant funding.

HB 343, 485, 238 - \$40,500 in development funding needed. No opportunity for grant funding.

Alternative funding sources, if any: Grant money only for HB 206.

If this request is not funded at this time, what are the consequences or is there an alternative strategy? These projects will not be completed.

9. FY 2020 Carryforward Spending Request - IT - Development Costs for Unfunded Mandates

Bill	Title	Brief Description	Additional One Time	Additional On-Going	Additional One-time with potential other sources
HB 206 S3	Pre-trial, ability to pay; bonds Funding from fiscal note:	Surety bond-email; ability to pay \$63,000 (1x) (\$13,000) (On-going)	\$27,000	\$0.00	\$180,000 (CCJJ)
HB 288 S1	CCJJ reporting Funding from fiscal note:	Twice yearly data reporting to CCJJ (defendant info); no changes per Clayson. His dept will report. \$33,000 (1x) \$2,400 (ongoing)	\$0.00	\$0.00	\$0.00
HB 291 S1	Vacature/human trafficking	CARE expungement at an incident level	\$90,000	\$0.00	\$0.00
HB 343	Probate - notice to Office of Recovery Services (ORS)	We need to start requiring the decedent's DOB.	\$20,500	\$1,500.00	\$0.00
HB 485 S1	Security Surcharge	Increase in amounts in tables; change to computation stored procedures	\$10,500	\$0.00	\$0.00
SB 238	Mitigation of severity	Battered persons - severity decrease - possible new doc type; possible new screen in sentencing area like 402; emailed Clayson 3-17 to ask & to find a temp workaround.	\$9,500	\$0.00	\$0.00
Totals			\$157,500	\$1,500	\$180,000

Total 1x \$337,500

10. FY 2020 Carryforward Spending Request – Education Ldr’ship & Court Skills

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; **the Legislature approved the Judicial Branch’s request to carryforward up to \$2.5M in unspent FY 2020 funds into FY 2021.** This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

Date: March 25, 2020

Department or District: Education

Requested by: Tom Langhorne, Dr. Kim Free

Request title: Middle Management Leadership Academy & Court Skills Academy

Amount requested: One-time \$ 25,500

 Ongoing \$ 0

Purpose of funding request:

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

FY ’20-’21 Judicial Institute’s One Time, Carry Forward Appropriations Request:

- | | | |
|-----------|---|------------------------|
| 1. | Middle Management Leadership Academy | \$13,500 |
| 2. | Court Skills Academy | <u>\$12,000</u> |

Total Carry Forward Amount Requested: \$25,500

1. Deliver a fifth round of the “Middle Management Leadership Academy” in 2021

Anticipated Cost: **\$13,500**

Justification:

In 2015, 2016, 2018 and 2020, the first, second, third and fourth “Middle Management Leadership Academies” were delivered. Consistent with past practice, the middle management academy students will be nominated by each district using a competitive application process. Approximately 25 academy students will be selected to participate.

This five day academy is designed to better prepare case managers, PO supervisors, team managers and program coordinators for future TCE, Chief PO and Clerk of Court vacancies. It also emphasizes preserving the Utah courts’ unique mission and values for future generations of leadership.

All previous Middle Management Academies received universally outstanding evaluation scores. Prior to attending the Academy, each student was asked to self-evaluate their skill level for each of the three dozen Academy learning objections. After attending the Academy, students were asked the same self-

10. FY 2020 Carryforward Spending Request – Education Ldr’ship & Court Skills

evaluation questions for each learning objective. For every single learning objective, every students indicated they felt their knowledge, skills and abilities had strengthened, and for most learning objectives, the improvement was **very significant**. Virtually 100% of the students **“strongly agreed”** that, “Overall, my management and leadership abilities improved as a result of attending the Academy”. 100% also indicated, “The Academy’s usefulness to me was” **“very high”**.

This request covers hotel, mileage and meals for all attendees for the conference.

The costs also include \$1,500 for conducting a “refresher/reunion” of the 2020 Middle Management Academy graduation class. That Academy class unanimously and vociferously requested that they return for one day to exchange how they are conducting business differently as a result of attending the Academy and share learned lessons they are now applying in the field.

Because Tom Langhorne, Bart Olsen and Neira Siaperas are the Academy’s faculty, no funds are needed to secure faculty.

Alternative funding sources, if any:

Other than cutting education programs, none

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The Academy is one of the most popular and effective week long, intensive trainings offered by the Court. This and the other Academy, (“Court Skills Non-Supervisory Academy”) were designed several years ago as a critical part of HR’s and Education’s succession planning strategy. It is not only important in imparting enhanced management and leadership skills, it helps identify individual’s future leadership potential and preserve our courts’ unique values. This Academy is demanding and is extremely interactive. Moreover, a major component of the Academy involves small group decision making involving many realistic court related issues. During those sessions, each small group is observed and critiqued by a TCE, Clerk of Court or Chief Probation Officer. Accordingly, this Academy does not lend itself to remote, virtual training.

Trial Court Executives strongly recommend the continued funding of this Academy.

2. Deliver a fourth round of the “Court Skills Non-Supervisory Academy” in 2021 (the 2020 funded Court Skills Academy was cancelled due to the COVID-19 Pandemic)

Anticipated Cost: **\$12,000**

Justification:

In 2015, 2016 and 2017 the first, second, and third “Court Skills Non-Supervisory Academies” were delivered. Consistent with past practice, this Academy students will be nominated by each district using a competitive application process. Approximately 25 academy students will be selected to participate.

10. FY 2020 Carryforward Spending Request – Education Ldr’ship & Court Skills

This six day academy is designed to better prepare non-supervisory/non-managers for future managerial vacancies. It also emphasizes preserving the Utah courts’ unique mission and values for future generations of leadership.

All previous Court-Skills Non-Supervisory Academies received universally outstanding evaluation scores. Prior to attending the Academy, each student was asked to self-evaluate their skill level for each of the three dozen Academy learning objectives. After attending the Academy, students were asked the same self-evaluation questions for each learning objective. For every single learning objective, every students indicated they felt their knowledge, skills and abilities had strengthened, and for most learning objectives, the improvement was **very significant**. Virtually 100% of the students **“strongly agreed”** that, “Overall, my management and leadership abilities improved as a result of attending the Academy”. 100% also indicated, “The Academy’s usefulness to me was” **“very high”**.

Over the years, many managers of these Academy graduates advise Tom Langhorne they witnessed student’s enhanced performance and increased potential for future managerial vacancies.

The request covers all hotel, mileage and meals for attendees and \$1,000 for one external faculty. The majority of courses are taught by AOC directors (ex., Brent Johnson) and TCEs.

Alternative funding sources, if any:

Other than cutting education programs, none

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The Academy is one of the most popular and effective, intensive trainings offered by the Court. This and the other Academy, (“Middle-Management Academy”) were designed several years ago as a critical part of HR’s and Education’s succession planning strategy. It is not only important in imparting enhanced management and leadership skills, it helps identify individual’s future leadership potential and preserve our courts’ unique values. This Academy is demanding and is extremely interactive. Moreover, a major component of the Academy involves small group decision making involving many realistic court related issues. During those sessions, each small group is observed and critiqued by a TCE, Clerk of Court or Chief Probation Officer. Accordingly, this Academy does not lend itself to remote, virtual training.

Trial Court Executives strongly recommend the continued funding of the Court Skills Non-Supervisory Academy.

11. FY 2020 Carryforward Spending Request – 7th Dist. Castle Dale Courthouse Improvements

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however **the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.**

Date: 3/25/2020

Department or District: Seventh District, Castle Dale Courthouse

Requested by: Travis Erickson, TCE

Request title: Castle Dale Courthouse Improvements

Amount requested: **One-time \$ 28,000** _____

Ongoing \$ 0 _____

Purpose of funding request:

Castle Dale / Emery County Courthouse Enhancements:

- \$22,000 to purchase and install an x-ray machine the building has historically relied on hand searches and walk through magnetometer units.
- \$3,000 to make security enhancements to the Clerk’s front counter.
- \$3,000 to improve the staff evacuation pathway.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Background:

- The Castle Dale building is owned by Emery County. The Court’s agreement with Emery County (confirmed with Chris Talbot) makes the Court’s responsible for non-maintenance / new construction.
- The building contains three courtrooms which are used for Juvenile, District, and Justice Courts.
- Court hearings are typically conducted in one or more courtrooms on 3 to 4 days of each week. Deputies conduct screenings for patrons entering the building during court times only.

X-Ray Machine:

- The building is currently equipped with walk through magnetometers, however, there is no X-Ray Machine on site and bags need to be checked manually at the entrance by Sheriff’s Deputies.
- Screenings will be less intrusive and time consuming and more consistent and reliable if conducted with the aid of an X-Ray Machine.

Counter Enhancement:

- The Castle Dale Clerks’ Counter design incorporates two patron stations, one at standing height and one at ADA height. The glass at these windows is not shatter resistant and comes to a

11. FY 2020 Carryforward Spending Request – 7th Dist. Castle Dale Courthouse Improvements

height of about 6 and 5 feet respectively. This results in an opening of about 3 feet between the top of the glass and the ceiling. At times, patrons delivering paperwork simply reach above the glass to hand things to clerical staff.

- Through this enhancement, we hope to provide new shatter resistant glass and extend the height to within about 6 inches of the ceiling. We will also plan to mount a public facing monitor for better patron communication.

Evacuation Pathway:

- The secure parking and building entrances for Judges and Court Staff are from a parking area secured by a six foot high chain link fence. Judges and Court staff enters a numeric code to gain access to the secure parking area. There are two chain link gates built into the chain link fence for foot traffic in/out of the secured parking area – one that exits out near the Courthouse front door and the other which exits into an adjacent lot that is close to the Sheriff's substation. Neither of these gates is operational as an exit. Since the gates are not integrated into the building security system, they are padlocked. The only way to exit the secured parking area is driving out in a vehicle which will trigger the rolling automatic parking gate.
- This project will integrate both of the pedestrian gates into the building security system so they can be activated with an employee swipe card. This will enable an employee to use whichever gate offers the best exit from the secured parking area to reach safety (the evacuation plan does not contemplate the use of an employee vehicle to trigger the parking gate). Upon completion, the originally-designed building evacuation pathway through the secure parking area can be used instead of passing out either through (1) the public lobby or (2) a hallway on the side of the building farthest away from the courtrooms.

Alternative funding sources, if any:

Neither the County nor the district has sufficient funding to complete this project.

Chris Talbot indicated these projects could be added to the DFCM FY 22 Capital Improvements requests thought approval is far from certain.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

X-Ray Machine:

The district will seek to obtain an older, but still functional X-Ray machine, perhaps being replaced in another district, and/or Deputies will continue to check bags at the door until such time as a machine is available.

Counter Enhancement:

Counter operations will continue under the current facility. The district will continue to seek any available funding to enhance staff safety.

Evacuation Pathway:

Staff will continue to train for the available evacuation options and continue to pursue alternatives to open more direct evacuation routes.

12. FY 2020 Carryforward Spending Request – 7th District Moab Courthouse Improvements

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however **the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.**

Date: 4/2/2020

Department or District: Seventh District, Moab Courthouse

Requested by: Travis Erickson, TCE

Request title: Moab Courthouse Improvements

Amount requested: **One-time \$ 12,000** _____

Ongoing \$ 0 _____

Purpose of funding request:

Courtroom Modernization:

- \$5,000 to Redesign Judge’s Bench in courtroom 2 to allow for computer use during court
- \$5,000 to Redesign Clerk’s station in courtroom 2 for better computer use during court
- \$2,000 to purchase updated podiums for each courtroom

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Background:

- The Moab building is owned by Grand County and houses the Juvenile, District, and Justice Courts. The Court’s agreement with Grand County (confirmed with Chris Talbot) makes the Courts responsible for new construction / non-maintenance projects.
- Court hearings are typically conducted in one or more courts on about 4 or 5 days of the week. There are two courtrooms in the building. This request applies primarily to courtroom 2 (both Judge’s bench and Clerk’s station) which is the smaller of the two. It is most often used for Justice Court operations and is also used during voir dire.
- The layout of the building is such that this courtroom is more accessible and offers better support for in camera applications than judicial chambers.

Bench and Clerk Area Redesign:

The countertops in place for the judge and clerk in courtroom 2 are only about 15 inches in depth (front to back). These do not allow for the use of modern monitors, particularly those with the adjustability to tilt them down for best visibility for the judge to see and effectively interact with the courtroom. As such, Judges typically use a tablet, sometimes a lap top, but always a non-traditional device. Clerks must

12. FY 2020 Carryforward Spending Request – 7th District Moab Courthouse Improvements

spread their computer hardware out to each side so that the clerk's computer can be accessed. Unfortunately, this awkward configuration requires that the clerk turns their head away from the courtroom at a sharp angle to see the monitor.

This re-design will increase the depth of the physical workspaces for the Judge and clerk and will also ensure that there are sufficient electrical outlets and network connectivity for all essential courtroom devices.

Podiums:

The podiums in Moab Courtrooms 1 & 2 are showing their age. They are not large enough or sturdy enough to support the use of electronic devices. The district plans to order two podiums from UCI to match updated podiums that are in use in newer facilities. These are more broad and equipped with support for electronic devices.

Alternative funding sources, if any:

Neither the County nor the district has sufficient funding to complete this project. Chris Talbot indicated these projects could be added to the DFCM FY 22 Capital Improvements requests thought approval is far from certain.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The district will need to continue to seek funding via the court's IT and / or facilities budgets to complete this project over a greater period of time.

13. FY 2020 Carryforward Spending Request – Supplemental Judicial Operations

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 4/30/2020

Department or District: Court Administration

Presented by: Deputy Court Administrator – Cathy Dupont

Request title: **Supplemental Judicial Operations Budget**

Amount requested: **\$70,800**

Purpose of funding request:

The judicial operations budget provides each Judge, Senior Judge and Commissioner a fund for expenses associated with Utah Bar activities and other similar activities. This budget is separate from the judicial education budget and is not to be combined with out-of-state education.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

A policy approved by the Judicial Council on June 29, 1994 reaffirmed a judicial operations budget (established December 12, 1991) to provide each Judge, Senior Judge and Commissioner ‘a fund for expenses associated with Utah Bar activities and other similar activities’.

The judicial operations budget is currently structured as follows:

- \$500 per Judge, Senior Judge, and Commissioner is included in the Courts’ base budget.
- \$400 per Judge, Senior Judge, and Commissioner has historically allocated by the Judicial Council from one time carry forward funds.

Alternative funding sources, if any:

This supplemental funding is not included in our base budget and the courts has traditionally used carry forward funds to provide this additional \$400. The base budget does not include funding for this portion of the judicial operations budget.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

We will continue to expend the \$500 toward judicial operations activities but will be required to curtail those activities that might have been funded with this supplemental amount.

14. FY 2020 Carryforward Spending Request – HR – Employee Incentives for FY 2021

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 4/21/2020

Department or District: AOC Incentive Team
Presented by: Bart Olsen

Request title: Employee Incentive Awards

Amount requested: One time: \$260,000 (Last year's request was \$260,000)

Purpose of funding request:

The Courts has established a program to provide on the spot recognition for outstanding service as well as a formal nomination process to reward employees for their service in the following ways:

- An innovative idea or suggestion, implemented by the courts, which improves operations or results in cost savings
- The exercise of leadership beyond that normally expected in the employee's assignment
- An action which brings favorable public or professional attention to the courts
- Successful completion of an approved special assignment which falls outside of the employee's ordinary job responsibilities and which requires an unusual investment of time and effort
- Exemplary performance on a special individual or team project
- Continually outstanding performance of normal responsibilities.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

For many years, during the process to allocate unspent budget toward one-time activities in the following fiscal year, the courts have allocated \$200,000 for employee incentives. Prior to FY 2019, the employee received these awards net of payroll taxes (FICA, Federal and State Withholding) which lessened the value to the recipient. The state's incentive policy adds 30% to the incentive award as it is entered into the payroll system to mitigate the impact of withholding taxes on the recipient. During FY 2018, the Accounting Manual Committee recommended and the TCEs adopted the state's incentive policy to be effective for FY 2019. This request is for the \$200,000 plus the funds required to cover taxes.

Alternative funding sources, if any:

This funding has always been carved out of carry forward funds from the prior fiscal year. If we do not fund this amount, there will be no extra funds available to fund employee incentive awards.

14. FY 2020 Carryforward Spending Request - HR - Employee Incentives for FY 2021

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

This has been a benefit that has been provided for employee awards every year except during years of budget restrictions. It would have a detrimental impact on employee morale to eliminate this program in a year without a budget restriction.

15. FY 2020 Carryforward Spending Request – HR – Educational Assistance for FY 2021

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2020 funds into FY 2021. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 4/21/2020

Department or District: Human Resources
Presented by: Bart Olsen

Request title: Employee Educational Assistance

Amount requested: One Time: \$75,000 (\$42,000 was approved for FY 2020 Budget. All employees for Spring term 2020 will have completed their coursework and been reimbursed by 6/30/2020. There is no guarantee of funding past the current semester.

Purpose of funding request:

The Utah Courts encourages employees to seek further education in order to perform their jobs more effectively and to enhance their professional development. The Human Resources Department may assist an employee in the pursuit of educational goals by granting a subsidy of educational expenses to Court employees under specified circumstances. This request will subsidize education assistance for court employees for FY 2021. FY 2020 YTD spend is trending towards \$60,000 on an annual basis.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Career Service and Career Service Exempt employees who have been employed by the Courts for a period of at least one (1) year and have successfully completed a probationary period are eligible to apply for this benefit. Utah Courts' HR rules specify the employee must be pursuing a Bachelor's or Master's Degree at an accredited university or college. The educational program must provide a benefit to the Courts. Employees desiring to take advantage of this program are required to receive advance approval from their supervisors and the HR Department. The employee enters into an Education Assistance Contract prior to the beginning of the course and may be reimbursed for their costs (tuition and fees) at the successful conclusion of the course (meaning a final GPA of 2.0 or better). Court's policy aligns with IRS limits which cap tuition reimbursements to \$5,250 per calendar year per employee as a tax-free benefit.

Alternative funding sources, if any:

This funding is not included in our base budget and the courts has traditionally used carry forward funds to provide this benefit.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Employees currently enrolled in college courses will not receive a reimbursement for their educational pursuits and future applicants will be turned away.

Tab 4



FY 2020 Year End One-Time Spending Requests

One-time Spending Plan

Forecasted Available One-time Funds				# One-time Spending Plan		FY20	13-Mar	Final Judicial Council	
#	Description	Funding Type	Amount	One-time Budget Requests/Current Status in Bold		Requests	Judicial Council	Approvals for Essential	
						Amount	Approvals	Items (E)	
							Amount	Non-essential (NE)	
1	Turnover Savings as of pay period ending 4/17/2020	Turnover Savings	3,350,843	1	Courtroom A/V Upgrades (IT) - work in process partially expended	350,000	350,000	350,000	E
2	Turnover Savings Estimate for the rest of fiscal year (\$115K x 5 payrolls)	Turnover Savings	575,000	2	Upgrade For the Record (FTR) Digital Recording Software (IT) - Already expended	257,600	257,600	257,600	E
3	From TCE / AOC budgets	Internal Savings	546,100	17	Remote Accessories - Already expended	83,000	83,000	83,000	E
4	Probate Notice Amendments (HB 343, 2020 GS)	Legislative Action	20,500	3	Learning Management System (Education) PO signed.	164,100	164,100	164,100	E
5	Reserve Balance (from August Judicial Council meeting)	Reserve	150,000	4	Self-Assessment Materials (Education) - Withdrawn (W/D) by Requester	2,000	2,000	N/A	NE
6	Reduction in FY 2020 funds due to FY 2020 legislative session	Legislative Action	(165,000)	5	Training Equipment (Education) (laptops & equipment to create virtual training)	4,600	4,600	4,600	E
7	Estimated Maximum use of Carryforward into FY 2021	Carryforward	(1,500,000)	6	Alternative Dispute Resolution Training (ADR Committee) - CLASS CANCELLED	13,200	13,200	N/A	NE
				7	Online Dispute Resolution Facilitation Training Manual (ADR) (See Footnote)	5,000	5,000	5,000	E
				8	Jury Chairs for Brigham City (1st District) (See Footnote)	15,000	15,000	15,000	E
				9	Jury Tables / Chairs for West Jordan (3rd District) (Order can be Cancelled w/o penalty)	66,700	66,700	-	NE
				10	Carpet Replacement - Ogden Courthouse (2nd District) (Past cancellation date)	19,650	19,650	19,650	E
				11	Public Viewing Agenda Monitor (Court of Appeals) (Order can be Cancelled w/o penalty)	4,000	4,000	-	NE
				12	Matheson Café Room and Conference Room A/B/C Furniture (Facilities) (Partial Cancel)	130,500	130,500	43,500	E/NE
				13	Workforce Performance Bonuses (State Court Administrator) - W/D by Requester	500,000	500,000	N/A	NE
				14	Nat'l Assoc. Drug Court Prof. Annual Conference (Veteran's Court Team) - Converted to virtual conference @\$500 per attendee	3,960	3,960	-	NE
				16	Inventory of PCs (4/7/2020 deadline) (IT) - Already expended	250,000	250,000	250,000	E
				18	Replenish IT Equipment Monies Used for COVID19 Purposes	279,000		279,000	E
				19	NEW. IT Court Room Video Equipment for Jury Trials	250,000			E
				20	NEW. IT Docking Stations for New Laptops and Other Misc IT Purchases	115,000			E
					Total One-time Spending Requests (before Contingent Requests)	2,513,310	1,869,310	1,471,450	
					Potential Return to State Finance			1,505,993	
Total Forecasted Available One-time Funds									
			\$ 2,977,443						
Judicial Council Prioritized / Adopted									
			\$ (1,471,450)						
Actual Return to State Finance Including other Savings									
			\$ 1,505,993						
Contingent Requests									
				13a	Employer Paid Benefits for Workforce Bonuses (6/26/2020 deadline) (SCA) Withdraw	160,200			N/A
				15	Matheson Carpet Replacement (4/15/2020 deadline) (Facilities) - Move to \$2.5M Cfwd	400,000			N/A
				Total with Contingent Requests		\$ 3,073,510			
E Footnotes for "Essential" Expenditures for which Funds Have not yet been Approved									
				19	See Separate Request document #19				
				20	See Separate Request document #20				

Updated May 8 2020

19. Request to the Judicial Council – FY 2020 - IT – Court Room Video for Jury Trials

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending forecasts indicate the Courts will not fully expend our appropriations by June 30. This is a request to the Budget and Finance Committee and Judicial Council to allocate the use of some of these anticipated unspent funds for **one-time projects that could be delivered prior to June 30, 2020.**

Date: 5/4/2020

Department or District: IT

Requested by: Heidi Anderson

Request title: COVID-19 Remote Jury equipment

Amount requested: \$ 25,000 per courtroom – x 10 courtrooms
One-time - \$250,000

Purpose of funding request: This request allows the Courts to purchase equipment necessary to support remote jury trials where the jury maintains social distancing in a different room. We would utilize existing stock of computers that is needed for replacement to temporarily use for remote trials. We would additionally purchase Cisco WebEx conference equipment to get the jury to the courtroom. The Conference equipment can be utilized for video conference rooms after the time it is needed for “remote” jury needs. Most items that are purchased can be repurposed for the success of our courts.

Due to the need for this equipment for FY 2020, this is requested to come for FY 2020 Year End funds.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Please see attached equipment cost sheets (link to google sheet) and note sheet 1 has all costs (\$40,000) per courtroom; sheet 2 has the net cost of \$25,000 per courtroom due to the IT team repurposing equipment in inventory today to lower current spend.

Link to cost sheet

<https://docs.google.com/spreadsheets/d/1QsqjdLtzrKoV1Kaw3NMjT1-1iV-ShopWhCg7Almmqcg/edit?usp=sharing>

Link to Photos of remote Jury set up

https://drive.google.com/drive/folders/1jErT095DnmP2_K4J-2O2gjQ3j4jaHbd5?usp=sharing

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy? We would have to do Jury trials with no social separation or continue to postpone Jury trials.

20. Request to the Judicial Council – IT Docking Stations & Refurb Equipment

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2020 are to be spent between July 1, 2019 and June 30, 2020; however current spending forecasts indicate the Courts will not fully expend our appropriations by June 30. This is a request to the Budget and Finance Committee and Judicial Council to allocate the use of some of these anticipated unspent funds for **one-time projects that could be delivered prior to June 30, 2020**

Date: 4/16/2020

Department or District: Information Technology

Requested by: Todd Eaton/Heidi Anderson

Request title: IT Docking Stations for New Laptops and Other Misc. Purchases

Amount requested: **One-time \$115,500**

Ongoing \$ _____

Purpose of funding request:

Replace old desktops with laptops which are used in multiple locations but need docking stations; For the Record computer monitors/hard drives; replacement printers/scanners

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Given that we will have close to 600 new laptops on hand when current orders arrive and COVID loaner laptops are gathered back to IT, we do not need our normal “250 PC replacement” request.

Instead, we are reducing the total PCs needing support by retiring up to 2 old desktops for every 1 laptop we place. To optimize connectivity and ease of use of the laptops, we need additional docking stations.

1. We presently have 250 docking stations with cables on hand. Still need an estimated 900 docking stations to give each new laptop user two locations where each laptop can be used with cables – Estimated cost \$105/each x 900 = **Total \$94,500**
2. Assuming the funding for all 20 additional courtroom upgrades (\$350,000 DFCM, \$450,000 W. Jordan courtrooms) survives the special session, we have the PCs on hand to cover the clerk and FTR replacements, but we'll need a Mimo touch screen monitor and a 2nd hard drive for the 20 FTR recording computers. Estimated cost \$300/each – x 20 courtrooms = **Total \$6,000**
3. Other non-PC equipment typically covered by this replacement request:
\$5,000 - printers/scanners - beyond this we will have to charge individual locations
\$10,000 - 80 monitors to replace failing units - beyond this we will have to charge individual locations

That puts our total ask at \$115,500. These items can be purchased and received by 6/30/2020.

Alternative funding sources, if any:

20. Request to the Judicial Council – IT Docking Stations & Refurb Equipment

We would have to have each district pay for this equipment individually

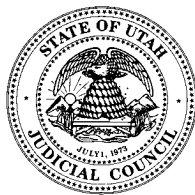
If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Without the docks and cables we cannot complete the consolidation of multiple PCs to a single laptop.

Without the Mimo monitors and 2nd Hard Drive we cannot complete the replacement of the FTR computers in the 20 courtrooms we are already funded to update the audio systems.

Without the Printer/Scanner/Monitor funding we will be charging individual districts for this equipment.

Tab 5



Administrative Office of the Courts

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

May 1, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Management Committee

FROM: Court Facilities Planning Standing Committee

RE: Recommendation for Judicial Council Renewal of Court Facilities Planning Standing Committee

In accordance with Code of Judicial Administration Rule 1-205(1)(D) , the Court Facilities Planning Committee is requesting a performance review and recommendation of continuance from the Management Committee to the Judicial Council for another 6 year term. The following information outlines the current committee membership, goals and notable accomplishments for your consideration.

Court Facilities Planning Committee Membership

Members

Hon. David N. Mortensen, Court of Appeals - Chair
Hon. M. James Brady Fourth District Court
Hon. Jeffrey Noland Second District Juvenile
Hon. Mary Noonan, Court Administrator
Hon. Jon Carpenter, Carbon County Justice Court
Mark Urry, Trial Court Executive Fourth District
Chris Palmer, AOC Security Director
Archie Phillips, Architect

Staff

Cathy Dupont, Deputy State Court Administrator
Chris Talbot, AOC Facilities Director – Committee Facility Coordinator
Holly Albrecht, Court Administrative Assist.

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

Utah Courts Rule 3-409 outlines the intent and goals of the Court Facilities Planning Standing Committee.

- To provide for the effective planning of court capital facilities.
- To promote the efficient use of new and existing courthouses through application of co-location and multi-use court facility concepts.
- To establish a framework for the conceptual, planning, developmental and implementation phases of court capital facilities.
- To provide for Council review and approval of all proposed court capital facilities.
- To ensure adherence to the design and space guidelines and other requirements of the Utah Judicial System Capital Facilities Masterplan.

Judge Mortensen and Chris Talbot provide an annual report to the Judicial Council every May to forward prioritized issues, opportunities and projects that meet the Committee's goals.

Notable Accomplishments over the past 4 years

2020	Update of the Utah Judicial Facility Design Standards
2020	27 prioritized capital improvement projects requested at \$5.4M
2020	State Funding request presentation to IGG sub-committee for a new Manti Courthouse – not funded for \$20M. Will present request again in 2021.
2019	Opening of new Provo Fourth Judicial District Courthouse
2019	State Funding request presentation to State Building Board for a new Manti Courthouse – Ranked 3 rd out of 11 projects
2019	10 prioritized capital improvement projects completed at \$5.6M
2019	State Funding request presentation to IGG sub-committee for a new Manti Courthouse – not funded for \$19M
2018	State Funding request presentation to State Building Board for a new Manti Courthouse – Ranked 9 th out of 12 projects
2018	Opening of new Carbon County 7 th District Courthouse
2018	16 prioritized capital improvement projects completed at \$5.1M
2016	Update of the Utah Judicial Facility Design Standards
2016	Opening of Ogden 2 nd Juvenile Courthouse

Utah State Courts

Court Facility Planning Committee

2020

Annual Report

Rule 3-409

Intent:

- To provide for the responsibilities of the Court Facility Planning Committee.
- To provide for the effective planning of court capital facilities.
- To promote the efficient use of new and existing courthouses through application of co-location and multi-use court facility concepts.
- To establish a framework for the conceptual, planning, developmental and implementation phases of court capital facilities.
- To provide for Council review and approval of all proposed court capital facilities.
- To ensure adherence to the design and space guidelines and other requirements of the Utah Judicial System Capital Facilities Master Plan.

Committee Responsibilities

- 1. Review trends and projections in population, caseload, and other growth indicators to anticipate courthouse construction needs:**

Studies Current and Ongoing

- Manti Courthouse replacement Feasibility study complete in 2019. Waiting for State funding (\$20M)
- St. George Courthouse expansion for Federal Courts – Feasibility and cost estimate study in process.
- Heber City / Wasatch County - Add juvenile courtroom to County facility. Feasibility study will start in 2020
- Cedar City / Iron County - Courthouse replacement or 3 courtroom addition, no planned action
- Layton , Farmington & Bountiful / Davis County - New future courthouse, no planned action

Capital Development Projects

- Sixth District Manti - District and Juvenile Courthouse– Property demolition of existing structures completed in February 2020. IGG did not approve funding in FY21. Preparing for FY22 funding request.

2. Review the evaluations of courthouses required by this rule and recommend the prioritized placement of courthouse construction projects within the Master Plan:

The Committee annually evaluates and prioritizes all court sites and court facilities for the Facility Master Plan. The information is used to evaluate each facility for capital development, capital improvement, facility maintenance and remodel projects. The Master Plan includes all court facilities (state owned, leased and contract sites) and was last updated by the Standing Committee on 4/19/19

3. Review recommendations from the facility coordinator on construction projects and the Master Plan:

As part of the budget process the facility coordinators (Trial Court Executives) are required to submit a list of projects in their districts for funding consideration to the Committee. These requests are reviewed, evaluated and prioritized for the annual Capital Improvement Project funding by the Legislature. 10 projects were approved in FY20 for a total of \$5.6M. Most have been completed.

4. Make recommendations to the Council regarding the reordering of Master Plan priorities and amendments to design and space guidelines:

The Master Plan is reviewed as events, conditions or opportunities develop. The Committee evaluates the prioritization of the Master Plan annually and presents recommendations and changes to the Judicial Council as needed. The Standing Committee does not recommend reordering of any priorities at this time.

The Design and Space Guidelines are updated at the end of each Capital Development project to reflect the lessons learned at the completion of each new courthouse project. The guidelines are in the process of being updated by VCBO Architects and will be completed in FY20.

5. Compare construction requests with the Design and Space Guidelines of the Master Plan to ensure the current and anticipated needs of the court are met:

All construction renovation requests are reviewed for compliance to the Design and Space Guidelines. The guidelines are also updated as needed to ensure they meet the current needs for court renovations in the future.

6. Develop timetable for construction requests so that the Committee presents its recommendations to the Council in advance of the Annual Planning Workshop:

The Master Plan prioritizes all court facilities requests. This prioritization is used to select the order of Capital Development and Capital Improvement requests based on the needs of the courts and is included in the annual report of the Standing Committee.

7. Make recommendations to the Council for the approval, modification or disapproval of construction requests:

All Capital Development Project Requests are evaluated for need and compliance with the Master Plan and Design Guide Lines before presentation to the Council for approval. The Council can modify or change the list before any action is taken by the Standing Committee.

8. Develop procedures for the delegation of committee responsibilities to the facility coordinator:

The Committee has delegated the responsibility of defining and requesting improvement projects to the facility coordinators (Trial Court Executives) and their DFCM Facilities counterparts in each district. The procedures for evaluating and developing these requests have been incorporated into the annual budget request process. Once a project is funded, the facility coordinators are an integral part of all construction meetings through the completion of the project.

Facility Master Plan 2020

State Owned Court Facilities		
District Site	Scope and Cost Estimates	Update Status
Fifth District Cedar City	Replace or expand the existing courthouse built in 1980s. Possibly add 3 courtrooms to the existing facility. No cost estimate at this time	Currently priority #2 on the Capital Development request list. Will not be requested until Manti is funded
Fifth District St. George	Exploring expansion possibilities and a 15 year lease of the new space with the Federal Court.	Feasibility and preliminary cost estimate in process
Second District Davis County Court Facilities (Layton, Farmington and Bountiful)	Space needs will be defined in the feasibility study when projections indicate additional courtrooms and program space is needed. The feasibility study will evaluate the needs of all three court facilities in Davis County. Current courthouses should accommodate Courts until 2030. No cost estimate at this time	No action has been taken or planned.

Leased Court Facilities		
District Landlord Site	Project Description and Cost Estimates	Update Status
Sixth District Sanpete County Manti	Construct a new 2 courtroom courthouse in the central business district of Manti City. Feasibility study and cost estimate complete Property Acquisition cost - \$335,103 Estimated overall project cost will be \$19,597,906	Existing structures demolished in FY20. Project design and construction was not funded by Legislature in FY21.
Seventh District Grand County Moab	Proposed substantial remodel of existing 2 courtroom courthouse	No action has been taken.
Seventh District San Juan County Monticello	Proposed remodel of the existing facility to improve security and operational issues. Additional space needed for Juvenile Probation offices and juvenile secure holding cells. No cost estimate at this time	No action has been taken.

Juvenile Probation Facilities		
District City	Project Description and Cost Estimates	Update Status
Sixth District Juvenile Probation Manti	Construct a new courthouse in the central business district of Manti City that will consolidate all District and Juvenile functions into a single location.	This space is included in the Sanpete County Courthouse request.

Projects under review

These projects require may require local government or Court funding.

1. **Wasatch County Courthouse Expansion - feasibility and funding under review**
Fourth Juvenile Court has submitted a building block to add one additional courtroom to this facility for Juvenile court cases. Wasatch County has agreed to this addition on their County owned facility if the Court funds the construction estimated at \$2.5M. This project has been presented a few times to the budget committee over the past several years. Surplus funds from the new Provo Courthouse may not be used to fund the addition as a previously discussed possibility. The Court will fund a feasibility study in FY21 to determine scope and cost.
2. **Wayne County Courthouse - TBD**
Senator Hinkins has requested State funding for a feasibility study on a new County Justice Complex. This complex would replace the existing courtroom in this contract court location in Loa. Preliminary discussions will occur between the Senator and the Facilities Planning Committee in FY21
3. **St. George Courthouse Federal Court Expansion Request - TBD**
The Federal Court in 2018 created a Utah District Southern Region and have expanded services to allow all criminal and civil cases to be heard in St. George. They are requesting a substantial addition to our courthouse as their final lease option expires in 2024 and they will not have funding for a new federal courthouse for 15 - 20 years.

Planning Projects

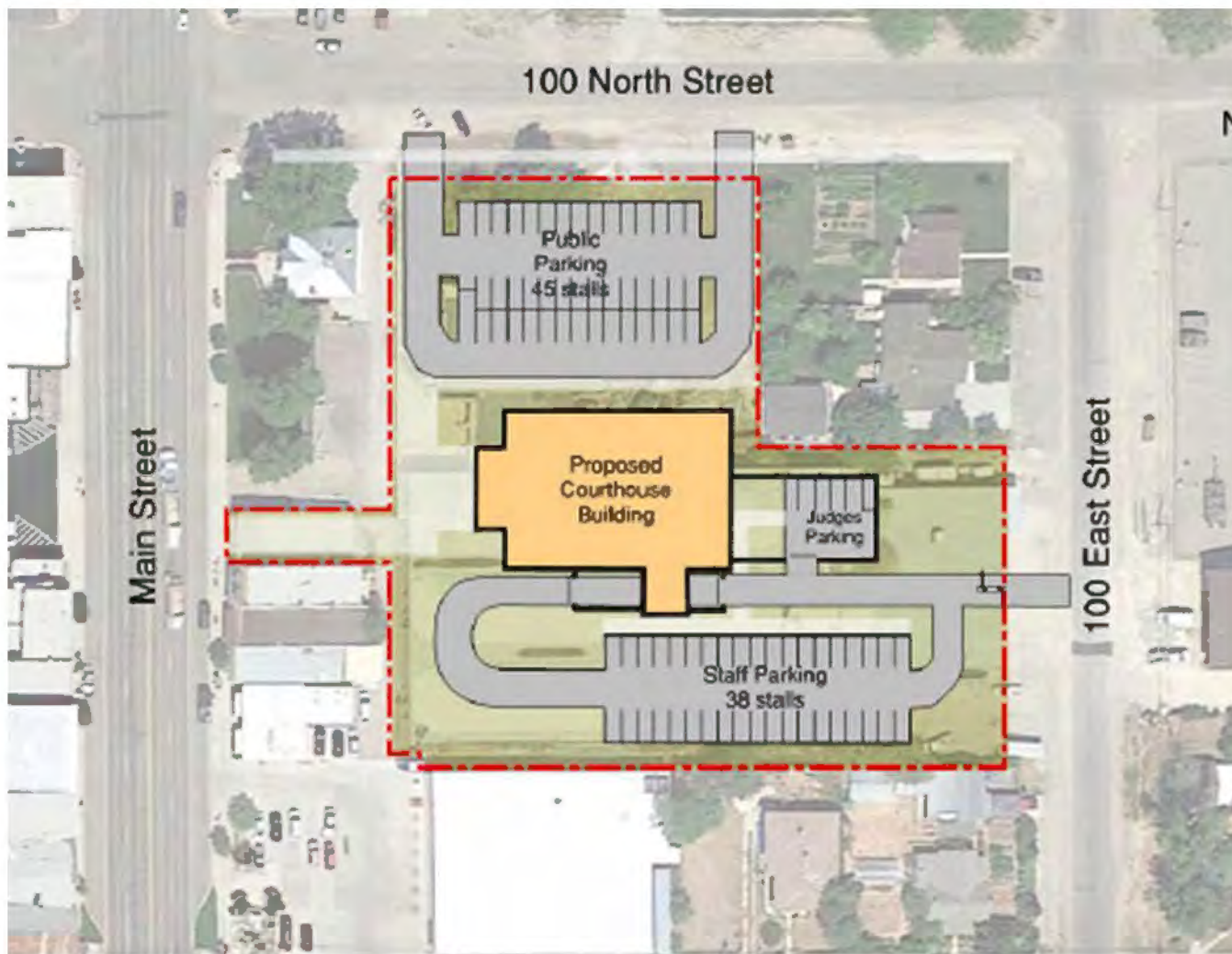
1. **Sanpete County** (District Court, Juvenile Court, Juvenile Probation and GAL) - Completed, waiting for State funding
2. **Iron County** (District Court, Juvenile Court, Juvenile Probation and GAL) - TBD
3. **Davis County**(District Court, Juvenile Court, Juvenile Probation and GAL) - TBD

Manti Courthouse Replacement

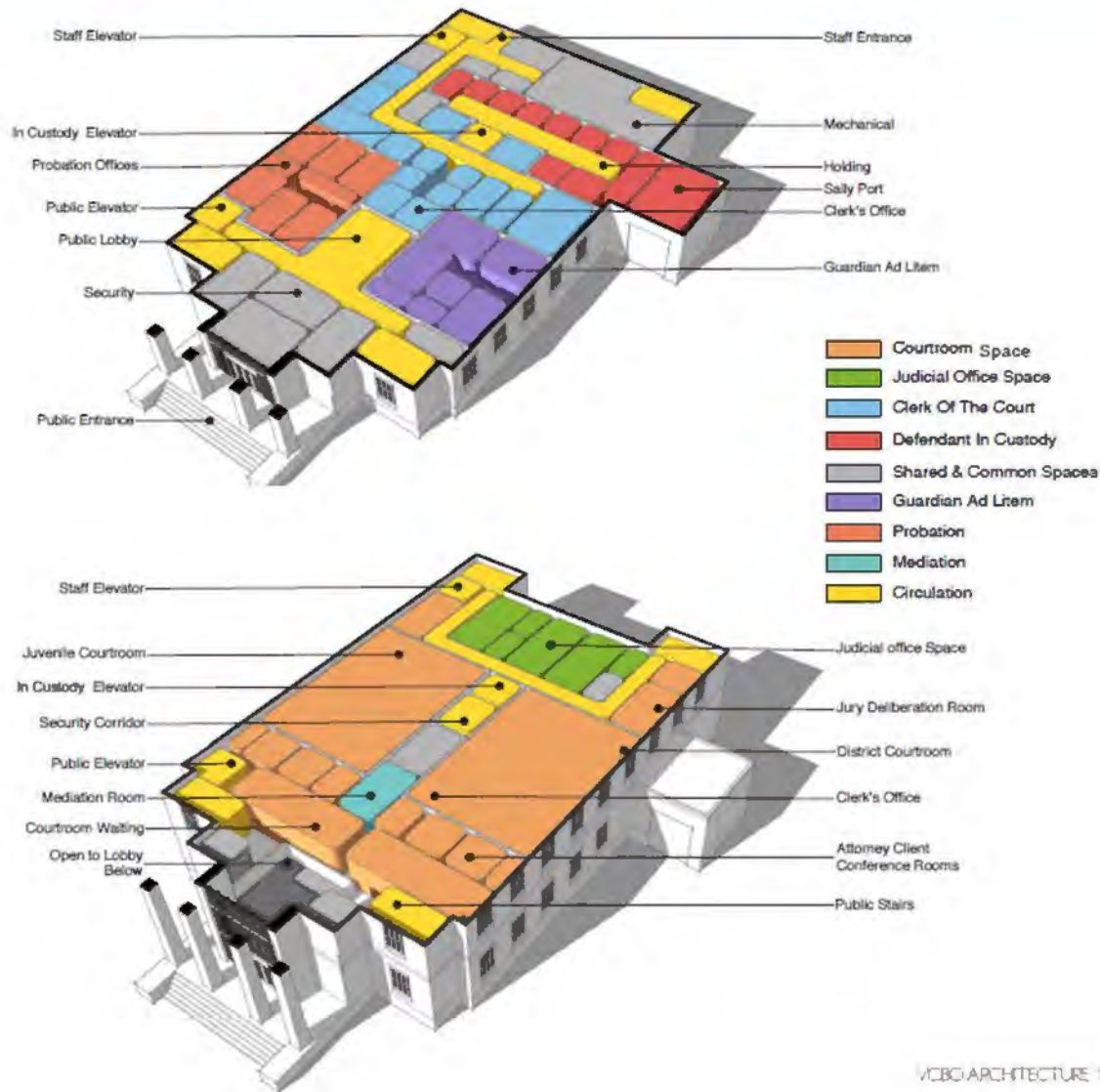


Court tenant space of 12,000 sf with lease expiring in 2022

Preliminary Site Plan



Building Massing & Space Adjacencies



Courthouse Hard Construction Cost Comparison

Past Construction Cost						Current Building Cost *	
Year Cost Estimated	Location	Total SF	Const Cost (Hard Cost Only)	Cost PSF	Funding Method	Const Cost (Hard Cost Only)	Cost PSF
2016	Price District Court **	31,728	\$ 13,353,629	\$ 421	County revenue bond with annual payments (100%) from State	\$ 17,696,885	\$ 558
2012	Nephi District Court **	8,564	\$ 2,726,487	\$ 318	County revenue bond with annual payments (100%) from State	\$ 4,430,574	\$ 517
2020	Manti District Court	30,221				\$ 15,833,042	\$ 525

* Escalated building costs provided by DFCM based on current construction costs

** Courthouses owned by County after final revenue bond payment (30 years)

Construction cost escalation increase since 2012 = 38%

COURTHOUSE INDUSTRY STANDARD ELEMENTS CONSTRUCTION COSTS

Building Area 30,221
Project Cost \$20,668,561.00

	INDUSTRY STANDARD COSTS ABOVE STANDARD CONST			INDUSTRY STANDARD COSTS + ADDITIONAL COURTHOUSE SPACES REQUIRED				INDUSTRY STANDARD COST + REQUIRED SPACES + 10% FOR REMOTE LOCATION		
	SQUARE FOOT COST PREMIUM	TOTAL COST	% OF TOTAL COST	ADDED SQUARE FOOTAGE	SQUARE FOOT COST PREMIUM	TOTAL COST	% OF TOTAL COST	SQUARE FOOT COST PREMIUM	TOTAL COST	% OF TOTAL COST
Construction Costs										
Manti Site Demolition & Abatement		\$1,070,000.00	5.63%			\$1,070,000.00	5.63%		\$1,070,000.00	5.63%
Emergency Power	\$10.90	\$329,245.40	1.73%		\$10.90	\$329,245.40	1.73%	\$11.99	\$362,169.94	1.91%
Security Cameras / Duress System	\$7.36	\$222,316.16	1.17%		\$7.36	\$222,316.16	1.17%	\$12.00	\$362,472.00	1.91%
Exterior Security Features for Deterrent Features	\$7.18	\$216,879.08	1.14%		\$7.18	\$216,879.08	1.14%	\$7.90	\$238,566.99	1.26%
Structural Upgrades for Essential Facility	\$10.12	\$305,684.72	1.61%		\$10.12	\$305,684.72	1.61%	\$11.13	\$336,253.19	1.77%
Technology, Audio Visual, DAS	\$12.72	\$384,220.32	2.02%		\$12.72	\$384,220.32	2.02%	\$19.99	\$422,642.35	2.22%
Security Elevators / Stairways / Circulation				864	\$435.00	\$375,840.00	1.98%	\$478.50	\$413,424.00	2.18%
Judges Parking				1,000	\$152.00	\$456,000.00	2.40%	\$167.20	\$501,600.00	2.64%
Central Holding / Courtroom Holding / Sally Port				1,904	\$280.00	\$533,120.00	2.81%	\$308.00	\$586,432.00	3.09%
Entry Screening Station				494	\$320.00	\$158,600.00	0.81%	\$352.00	\$168,960.00	0.89%
Total Courthouse Fitout (Construction)	\$48.28	\$2,528,345.68	13.31%	5,248		\$4,046,905.68	21.30%		\$4,462,520.47	23.49%
Soft Costs										
DFCM Design Complexity Addition		\$85,500.00	0.45%			\$85,500.00	0.45%		\$85,500.00	0.45%
Screening Station & Equipment			0.00%			\$165,000.00	0.87%		\$165,000.00	0.87%
Total Courthouse (Soft Costs)		\$85,500.00	0.45%			\$250,500.00	1.32%		\$250,500.00	1.32%
TOTAL PROJECT COSTS		\$2,613,845.68	13.76%			\$4,297,405.68	22.62%		\$4,713,020.47	24.81%

- Notes:**
1. Costs based upon the difference between Schools & typical Office Building Construction @ \$240/sf
 2. Assumes an enclosed outdoor parking area
 3. Includes additional square footage required to accommodate the additional circulation
 4. Based on estimated square footage per Manti Feasibility study 3/2019
 5. Assumes 2019 costs, no escalation

FY21 CBE Total Project Cost	\$ 20,668,561
Minus Courthouse Elements Cost	\$ 4,713,020
Comparison Total Project Cost	\$ 15,955,541
Comparison SF Cost	\$ 528

Manti Courthouse Replacement



It is estimated that **\$155 PSF** can be directly attributed to the cost of building this courthouse to common industry standards

FY20 Capital Development Request

FY19 Purchased Property Cost* \$ 335,103

**Purchased with Land Bank Request and to be reimbursed*

FY20 Abatement / Demolition \$ 1,070,655**

*** Demolition project funded through Court Capital Improvement request and to be reimbursed. Site ready for new construction by February 2020*

Total Funding Requested \$ 19,597,906

Requested Annual O&M* \$ 90,388**

**** New annual amount is reduced to 56% and will be supplemented by reallocated rent (\$71,898) from existing leases.*

Capital Improvement Projects Approved FY21

- Current list of Court requested projects = 111
- Top 27 prioritized projects (total funding of \$5.4M) approved by Legislature in February 2020
- Projects not released in March by DFCM due to pandemic and additional budget review
- DFCM requested in April that the Court push all non-essential projects to FY22
- Court has initially identified 7 projects at a cost of \$900K that could be delayed

Tab 6



UTAH STATE COURTS

2019

Annual Report

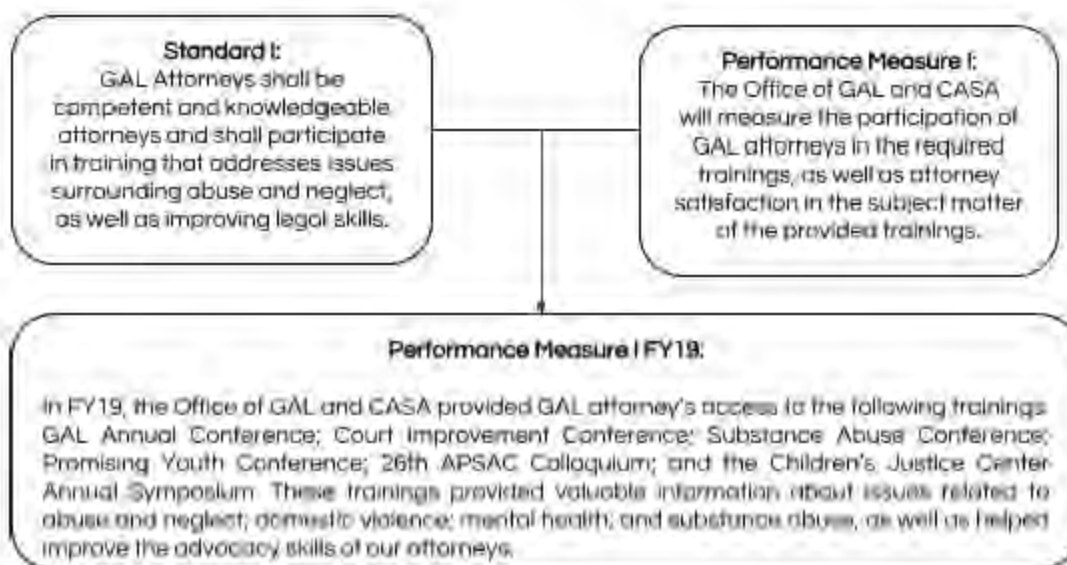
UTAH OFFICE OF
GUARDIAN AD LITEM
AND CASA

UTAH OFFICE OF GUARDIAN AD LITEM AND CASA

The job of a Guardian ad Litem attorney carries with it a tremendous responsibility. It is their job to stand in the shoes of the child and zealously advocate for the children the Office of Guardian ad Litem and CASA represents. Our attorneys are committed and well trained, and as such, are an asset to the State of Utah.

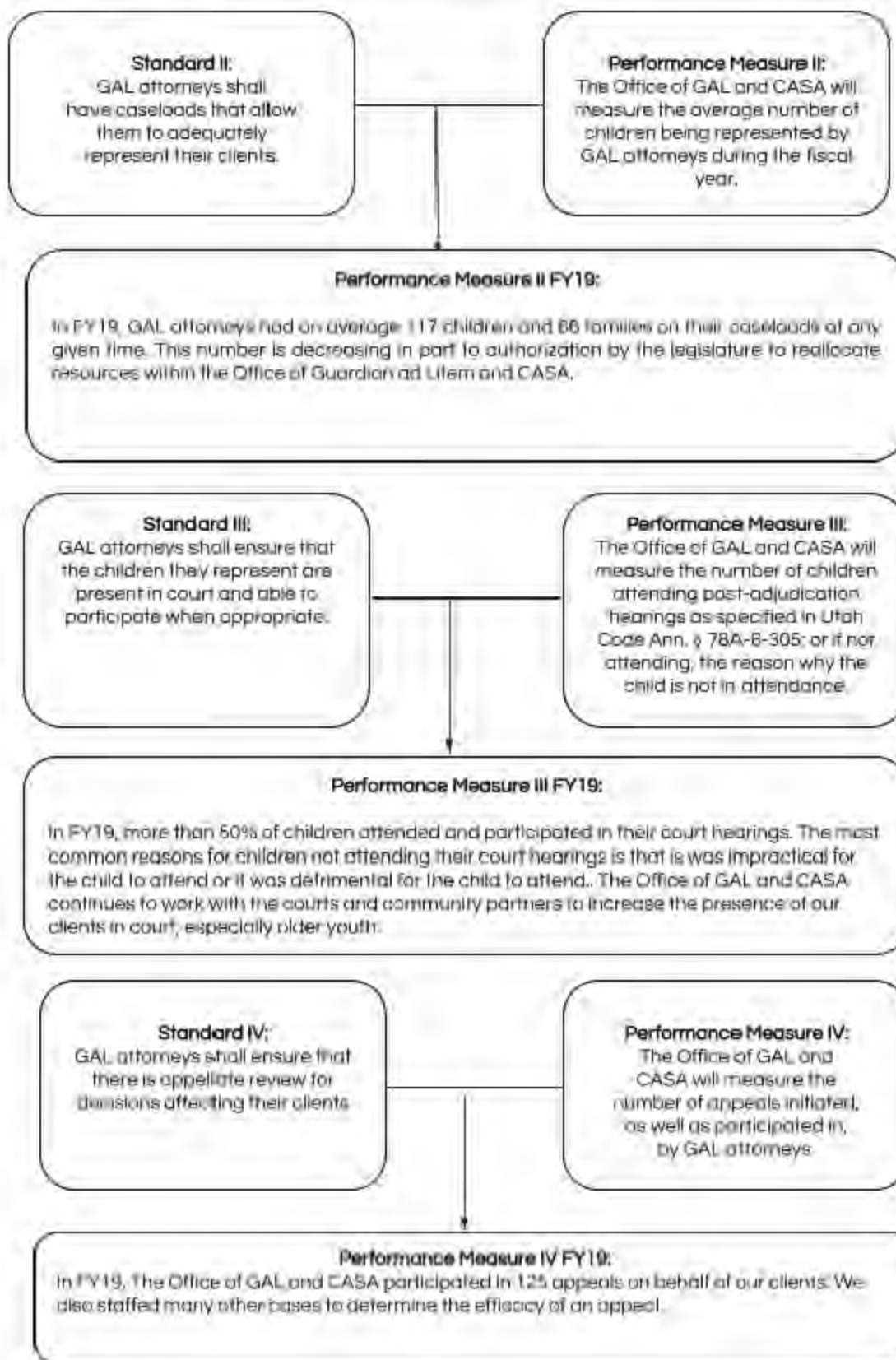
In FY2013, the Office of Guardian ad Litem and CASA was asked to develop performance measures and to report on those measures annually to the Executive Offices and Criminal Justice Subcommittee. In FY2014, the Office of Guardian ad Litem and CASA developed these Standards and Performance Measures and they were approved by the Executive Offices and Criminal Justice Subcommittee. The approved Standards and Performance Measures, as well as supporting FY2019 data, are listed below.

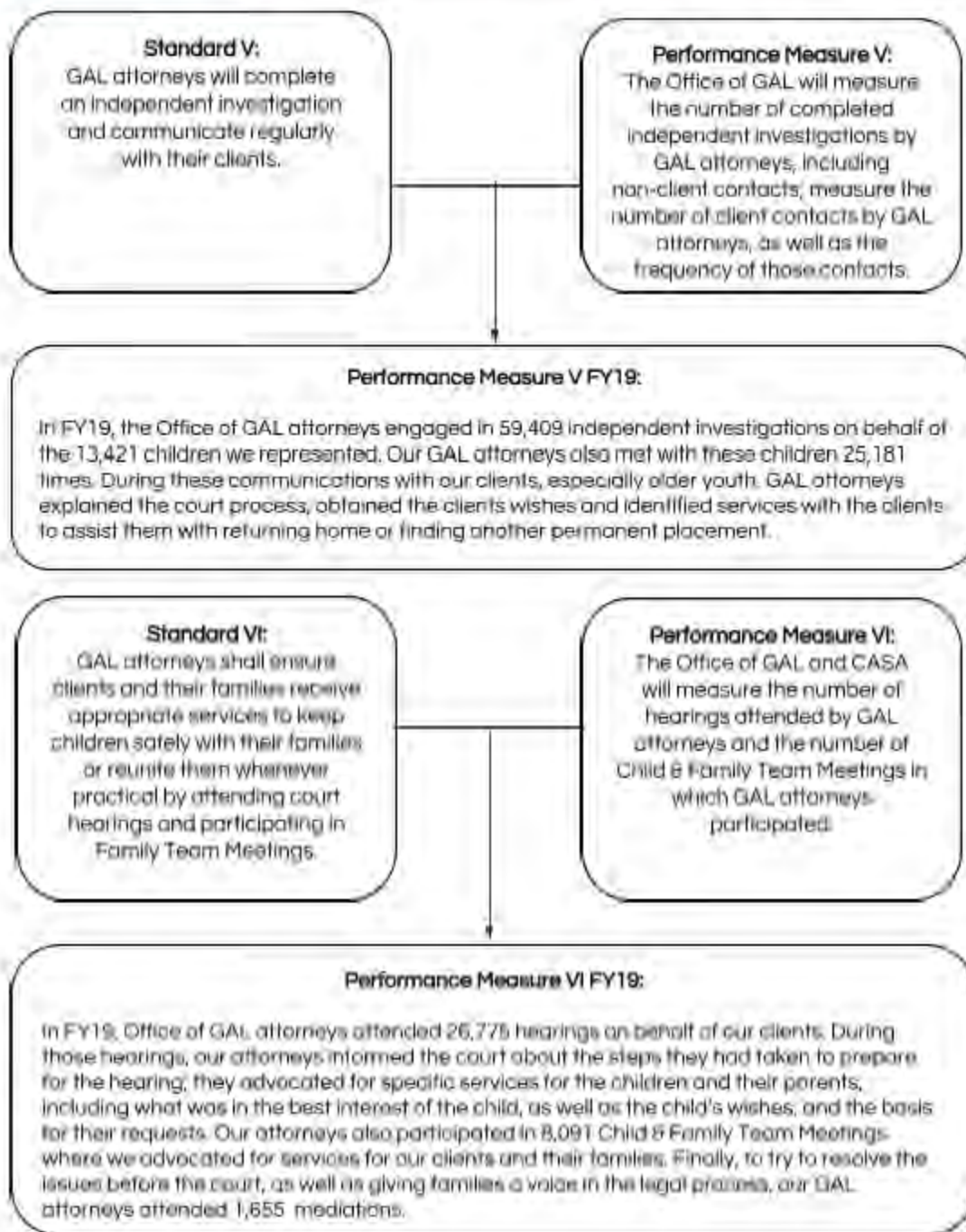
STANDARDS & PERFORMANCE MEASURES



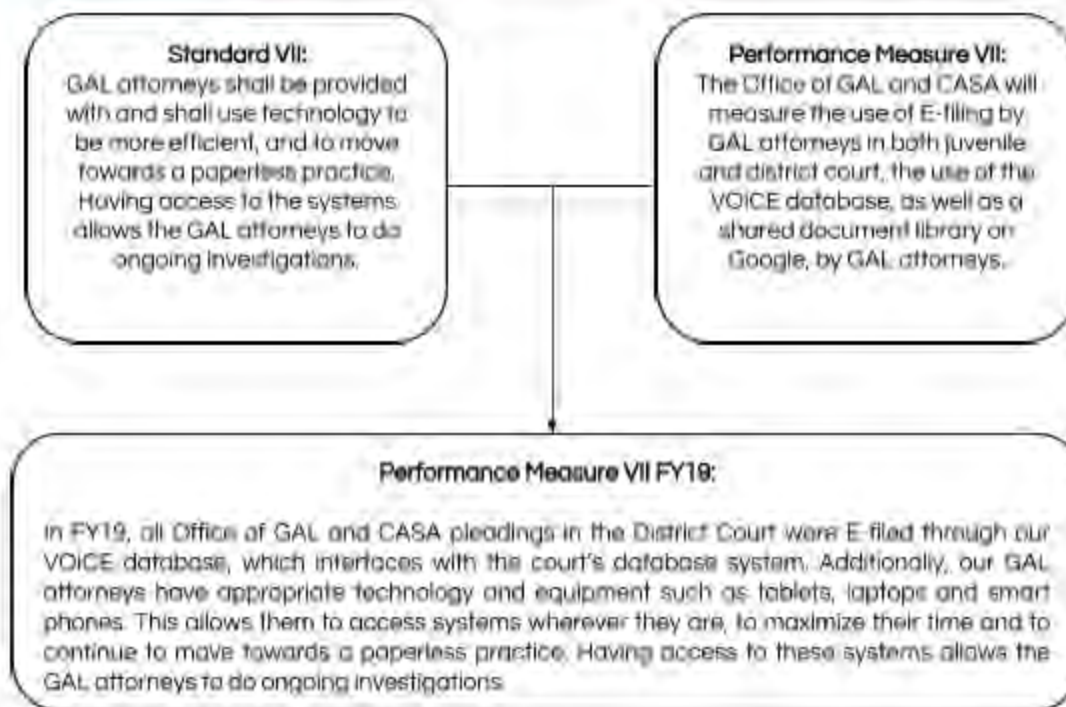
2019

UTAH OFFICE OF GUARDIAN AD LITEM AND CASA





2019

UTAH OFFICE OF GUARDIAN AD LITEM AND CASA**PRIVATE GUARDIAN AD LITEM PROGRAM**

In FY19, the Private Guardian ad Litem program continued to be active. We currently have 69 private attorneys who have accepted over 338 cases this past year, including over 34 pro bono cases. Dixie Jackson, our Private Guardian ad Litem Coordinator, continues to support these private attorneys by responding to questions, providing guidance and attending hearings when necessary. Also, the Best Practice Guidelines were expanded significantly, in the form of a Private Guardian ad Litem Manual, for the Private Guardians ad Litem to be better equipped to handle these difficult cases.

We continue to update our website monthly to keep the list of available Private Guardian ad Litem attorneys as well as the collection of pleadings that attorneys can use and modify. We also provide a Newsletter with information relevant to the role of the Private Guardian ad Litem each month. Finally, to assist the private attorneys comply with CJA R4-906, The Office of the Guardian ad Litem and CASA has hosted sessions of Continuing Legal Education throughout the state.

COURT APPOINTED SPECIAL ADVOCATE (CASA) PROGRAM

The CASA program is a valued resource for the Office of Guardian ad Litem and CASA. During FY19, 803 volunteer advocates served 1,554 children and donated 33,007 hours. Advocates are appointed pursuant to U.C.A. § 78A-6-902, subsection (4) (a) that states:

“An attorney guardian ad litem may use trained volunteers, in accordance with U.C.A. § 67-20-1 et seq...to assist in investigation and preparation of information regarding the cases of individual minors before the court.”

CASA volunteers are assigned to an individual case and gather information for the GAL attorneys by visiting consistently with child clients, attending child and family team meetings and court hearings, and tracking the child’s progress in school. In addition, these advocates ensure that the child is receiving needed services and is in a safe, nurturing environment by monitoring court orders and reporting to the GAL attorney.

CASA volunteers are carefully screened; they receive a background check and are provided with 32 hours of pre-service training and 12 hours of annual in-service training. Research conducted by the National CASA Association has found that children with CASA volunteers do better in school, spend less time in the foster care system, are less likely to re-enter foster care and are more likely to have a consistent, responsible adult present than other children in care.

UTAH’S FRIENDS OF CASA

Utah’s Friends of CASA is a 501(c) (3) nonprofit organization that supports the CASA program by providing supplemental funding for volunteer recruitment, training and retention.

Tab 7

Management Committee		Judicial Council		
January 12	12:00 p.m.	January 19 or 25	9:00 a.m.	State of the Judiciary is either January 19 or 25. Megan Selin Allen said "We do usually have State of the Judiciary on day 1 of the session which next year will probably be Jan. 25 however, the legislature changed the statute when the first day may start and depending if a constitutional amendment passes, it could start on Jan. 19. The constitutional amendment won't be on the ballot until the November general election." Also to note, January 18 is Martin Luther King, Jr. holiday.
February 16	12:00 p.m.	February 22	9:00 a.m.	Management moved one week because February 9 is CCJ meeting.
February 22	After Council mtg			To set March St. George agenda
March – no meeting		March 12	12:00 p.m.	In conjunction with Bar Spring Convention
April 13	12:00 p.m.	April 26	9:00 a.m.	Normal schedule
May 11	12:00 p.m.	May 24	9:00 a.m.	Fourth Monday is May 31, which is Memorial Day
June 8	12:00 p.m.	June 28	9:00 a.m.	Normal schedule
July 13	12:00 p.m.	July 19	12:00 p.m.	Fourth Monday is July 26. CCJ/COSCA meeting is July 24-28. Bar Convention is in Idaho July 28-31.
August 10	12:00 p.m.	August 20	8:00 a.m.	In conjunction with Annual Budget & Planning meeting
September 14	12:00 p.m.	September 28	12:00 p.m.	In conjunction with the Annual Conference
October 12	12:00 p.m.	October 25	9:00 a.m.	Normal schedule
November 9	12:00 p.m.	November 22	9:00 a.m.	Thanksgiving is November 25
December 14	12:00 p.m.	December 20	9:00 a.m.	Fourth Monday is December 27

Bar Spring Convention March 11-14 (St. George)
 Bar Summer Convention July 28-31 (Sun Valley)
 Bar Fall Forum TBD
 Annual Conference September 29 - Oct. 1 (Park City)

CCJ Midyear Meeting Feb. 6-10 (Chicago)
 CCJ Annual Meeting July 24-28 (Toronto)
 COSCA Annual Meeting July 24-28 (Toronto)
 COSCA Midyear Meeting Dec. 2-4 (Tempe)

Tab 8

CERTIFICATION OF PROBLEM SOLVING COURTS MAY 2020

THE FOLLOWING PROBLEM SOLVING COURTS MEET ALL REQUIRED AND PRESUMTIVE BEST PRACTICES:

FIRST DISTRICT ADULT DRUG COURT, BRIGHAM CITY, JUDGE MAYNARD

THIRD DISTRICT ADULT DRUG COURT, WEST JORDAN, JUDGE HOGAN

SECOND DISTRICT ADULT MENTAL HEALTH COURT, OGDEN, JUDGE HYDE

THIRD DISTRICT ADULT MENTAL HEALTH COURT, SALT LAKE CITY, JUDGE BRERETON

THIRD DISTRICT ADULT MENTAL HEALTH COURT, SALT LAKE CITY, JUDGE TREASE

FOURTH DISTRICT ADULT MENTAL HEALTH COURT, PROVO, JUDGE BRADY

FOURTH DISTRICT JUVENILE DRUG COURT, PROVO, JUDGE SMITH

SECOND DISTRICT FAMILY DEPENDENCY DRUG COURT, FARMINGTON, JUDGE NEIL

THE FOLLOWING PROBLEM SOLVING COURTS ARE REQUESTING WAIVERS IN REGARDS TO A NUMBER OF BEST PRACTICES:

SECOND DISTRICT JUVENILE DRUG COURT, OGDEN, JUDGE NOLAND

THIRD DISTRICT ADULT DRUG COURT, SALT LAKE CITY, JUDGE SKANCHY

March 6, 2020

Senior Judge Dennis Fuchs
Problem Solving Courts Coordinator
450 South State Street
Salt Lake City UT 84114

Re: Judge Skanchy's Third District Drug Court Certification

Dear Judge Fuchs:

Pursuant to your letter request of February 27, 2020, the following are our Court's responses to your non-compliance designation of our program. I note as a disclaimer that the Certification Criteria was a response from solely Judge Skanchy's Drug Court in the Matheson Courthouse. While all of our Courts adhere to our Salt Lake County Third District Drug Court Policy and Procedures Manual ("3rd District PPM"), there are variations in application, I assume, from Court to Court. Accordingly, unless I state otherwise our response to the certification questions may or may not differ depending on the individual Court practices.

1. Required Certification Criteria No. 7 (R)

Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.

Response: The only categorical exclusions for the Third District Drug Courts are twofold:

- (i) "Applicant has a history of sex offenses or has pending offenses that would make them a registered sex offender if convicted." (3rd District PPM Exclusion 1); and
- (ii) Applicant has been convicted of three (3) DUI or lesser offenses within the past ten (10) years; or has been convicted of two (2) DUI or lesser included offenses within the past ten (10) years and has a third pending DUI charge; or has a felony DUI charge pending. (3rd District PPM Exclusion 5)

Senior Judge Dennis Fuchs

March 6, 2020

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As to the DUI exclusion, this position has previously been taken by the Salt Lake County District Attorney's Office ("DA"). Recent discussions with the DA's office have resulted in this categorical exclusion being eliminated, and we are revising our policy to reflect such. This policy is applicable to all Third District Drug Courts.

As to sex offenders, the Court does exclude individuals with sex offense histories. This Court is unaware of any empirical studies that such individuals could be safely or effectively managed in a Drug Court setting. This policy is applicable to all of Third District Drug Courts.

2. Required Certification Criteria No. 38 (R)

Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.

Response: Incarceration is not used to achieve clinical or social services objectives in our Court. Salt Lake County is fortunate to have extended resources to address our needs such as the Volunteers of American Detoxification program ("VOA Detox"), our own use of ankle monitors, home confinement, sober living assistance, and heightened law enforcement supervision. We only use incarceration as a "last resort" for the personal safety of the individual. We do find that as a last resort, such as when a Drug Court client leaves a program, turns up high from extended relapse, and then leaves home confinement or VOA Detox, we may use incarceration to help us establish a safe alternative than ongoing unsupervised relapse in the community. Additionally, a client may be required to complete the Adult Detention Center's in custody treatment programs such as CATS, a 90-day in custody program, or the 30-day medically assisted treatment program to arrange for medically assisted treatment. One benefit of these programs is that the after care options for these programs include housing and medication assistance, which provides a client with services we might not have readily available.

Finally, the most typical instance in which a person may have more than a two or three-day jail sanction in our Court is when they have been on the run from our programs for thirty plus days, and are picked up on new charges, or our own Drug Court warrants. They have usually been gone from treatment for several months, and we undertake clinical reassessment while in custody to determine an appropriate level of care, which may direct them to a residential level of care. A clinical assessment ideally may take a week in custody. A residential level of care designation may require the Drug Court client to wait in custody until bed space becomes available at a residential treatment level, assuming we have exhausted all other available safe options for release back into the community.

Given those practical considerations on treatment, continuation and the safety of the client, we could not answer YES to this question. However, we do not view incarceration as a clinical or social service objective.

Senior Judge Dennis Fuchs
March 6, 2020
Page 3

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3. Presumed Certification Criteria #30 (P)

Clients are placed in the program within fifty days of arrest.

Response: Our time from referral into the Court to acceptance or rejection is typically three weeks. We do not control how long a Drug Court applicant may have been in custody prior to application to Drug Court, as that is a private or public defense counsel's and the respective individual client's determination of whether they are willing and should consider Drug Court as an alternative to a regular criminal defense. We have held trainings for defense counsel in this area on the application process, encouraged their use of the Drug Court program, but have not been able to control how an individual lawyer and their respective client may process whether Drug Court is an option they wish to pursue.

4. Presumed Certification Criteria #37 (P)

New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.

Response: We are not presently doing this. We have been in discussion with Salt Lake County Criminal Justice Services and the Salt Lake County Criminal Justice Advisory Committee ("CCJAC") on resources we can employ to start an evaluative process as this question requests. This is a task we are presently undertaking with our Drug Court stakeholders. This has proven problematic as the Bureau of Criminal Identifications will not release information on anyone not currently in Drug Court to us. Noella Sudbury of CCJAC was overseeing this effort to negotiate a pathway to clear this hurdle. She left CCJAC in the summer and her replacement is picking this up. Salt Lake County Criminal Justice Services is pursuing this within CCJAC. This also is applicable to all Third District Drug Courts.

Judge Fuchs, if there is more information you or the Council may need or direction you suggest we implement to meet your expectations, please let us know. We are very proud of our Drug Court and its accomplishments over the last twenty-four years of its existence. As of January 29, 2020, the Salt Lake County's Drug Court programs have had 3,296 successful individuals finish this program. These include individuals who have gone on to obtain college graduate and undergraduate degrees, own successful businesses, become productive members of the community, and achieve personal goals they never expected to accomplish. We are most

Senior Judge Dennis Fuchs
March 6, 2020
Page 4

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appreciative of Salt Lake County and the Administrative Office of the Court's efforts to support us in this wonderful work.

Sincerely,

Randall N. Skanchy
District Court Judge

RNS:ss

cc: Jennifer Mitchell
Debra Kreeck-Mendez
Kele Griffone
Judge Todd Shaughnessy
Judge Laura Scott
Judge Douglas Hogan
Judge James Blanch

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: SALT LAKE COUNTY, SALT LAKE CITY

JUDGE NAME: SKANCHY

REVIEW DATE: FEBRUARY 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	X	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	X	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

YES NO		PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>		BPS
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

YES NO		NON-CERTIFICATION RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.



UTAH PROBLEM-SOLVING COURT REQUEST FOR WAIVER OF PRESUMED CERTIFICATION CRITERIA

PROBLEM-SOLVING COURT INFORMATION

Name of Judge: Noland

Type of Court: Problem Solving Court (Juvenile Drug Court)

Location of Court: Weber County

Date: 3/6/2020

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: Program has a written policy addressing medically assisted treatment.

Reason for non-compliance: No current internal policy regarding minors and medically assisted treatment.

Anticipated compliance date or reason as to why compliance cannot be met:

Permanent or Temporary Waiver Request: Temporary Waiver Request while this is explored.

Compensating measures: Weber Human Services (WHS) will work with medical providers internally to explore willingness to provide Buprenorphine to minors.

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #2

Requirement: Drug tests are available within 48 hours

Reason for non-compliance: WHS now contracts with an outside provider to administer and test all UA's.

Anticipated compliance date or reason as to why compliance cannot be met: Current procedure noted below.

Permanent or Temporary Waiver Request: n/a

Compensating measures: WHS now contracts with Beachtree to administer and complete all UA's. Results are typically available within 48 hours, with the exception being a positive result taking longer as these are all confirmed for accuracy.

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: Minimum length of the program is 12 months.

Reason for non-compliance:

Anticipated compliance date or reason as to why compliance cannot be met:

Permanent or Temporary Waiver Request: Permanent-EBT can be provided in a sufficient dosage to effect positive outcomes and adhere to the treatment models that have been demonstrated to work with this population.

Compensating measures: Meta-analytic data on adolescent substance abuse does not prescribe 12 months of treatment. WHS is dedicated to providing Evidence Based Treatment that has proven to be effective in the treatment of adolescents with substance use disorders.

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

Clinicians working with this population are trained and certified in the Adolescent Community Reinforcement Approach (A-CRA) Moral Reconciliation Therapy (MRT), Motivational Interviewing (MI), and Aggression Replacement Training (ART).

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: Participants receive a sufficient dosage of treatment to achieve long-term recovery.

Reason for non-compliance: n/a EBP's provided in this program are shown to be effective when the adolescent receives adequate dosage.

Anticipated compliance date or reason as to why compliance cannot be met:

Permanent or Temporary Waiver Request: WHS engages in the use of EBP that specifically target this population. Clients are provided the opportunity to receive dosage of EBP that have been proven to be effective.

Compensating measures: WHS is dedicated to providing Evidence Based Treatment that has proven to be effective in the treatment of adolescents with substance use disorders. Clinicians working with this population are trained and certified in the Adolescent Community Reinforcement Approach (A-CRA) Moral Reconciliation Therapy (MRT), Motivational Interviewing (MI), and Aggression Replacement Training (ART).

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: Participants receive a brief evidence-based education to prevent or reverse overdose.

Reason for non-compliance:

Anticipated compliance date or reason as to why compliance cannot be met:

Permanent or Temporary Waiver Request:

Compensating measures: Clinician will provide a brief evidence-based education to prevent or reverse overdose, specific to the use of the nasal spray version of naloxone hydrochloride.

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: The program conducts an exit interview for self-improvement

Reason for non-compliance: Program has not previously had a standard exit interview process.

Anticipated compliance date or reason as to why compliance cannot be met: Can implement asap.

Permanent or Temporary Waiver Request: n/a

Compensating measures: During discharge, the clinician will ask PSC participant and/or family member for feedback regarding program improvement. WHS will look at a potential feedback form to be given to participant or family who has participated in PSC.

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: The drug court has more than 15 participants.

Reason for non-compliance: HB239 has directly impacted the numbers in youth and families being referred to Problem Solving court. Lack of referrals and willingness of ordered youth and families to participate in this program.

UTAH JUDICIAL COUNCIL
JUVENILE DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: WEBER COUNTY, OGDEN

NAME: JUDGE NOLAND

REVIEW DATE: JANUARY, 2020

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The juvenile drug team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.	I.A.
X	<input type="checkbox"/>	4	Candidates for the Juvenile Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	C
X	<input type="checkbox"/>	5	Candidates for the Juvenile Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	C
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	C
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Juvenile Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Juvenile Drug Court.	D
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Juvenile Drug Court.	D
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Juvenile Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	D
<input type="checkbox"/>	X	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	The Juvenile Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. R BPS II D	II D
X	<input type="checkbox"/>	12	Each member of the Juvenile Drug Court team attends up-to-date training events on recognizing implicit biases and correcting disparate impacts for members of historically disadvantaged groups. R BPS II F	II F
X	<input type="checkbox"/>	13	Participants ordinarily appear before the same judge throughout their enrollment in Juvenile Drug Court. R BPS III B	III B
X	<input type="checkbox"/>	14	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for the performance are discussed by the Juvenile Drug	III D

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			Court team. R BPS III D	
X	<input type="checkbox"/>	15	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program.	III E
X	<input type="checkbox"/>	16	Status hearings are scheduled no less frequently than every four weeks until participants graduates.	III E
X	<input type="checkbox"/>	17	The judge spends an average of at least three minutes with each participant.	III F
X	<input type="checkbox"/>	18	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III G
X	<input type="checkbox"/>	19	If a participant has difficulty expressing him herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV B
X	<input type="checkbox"/>	20	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III H VIII D
X	<input type="checkbox"/>	21	The judge makes these decisions after taking into consideration the input of other Juvenile Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III H VIII D
X	<input type="checkbox"/>	22	The judge relies on the expert input of duly trained treatment professional when imposing treatment-related conditions.	III H
X	<input type="checkbox"/>	23	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV A
X	<input type="checkbox"/>	24	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and legal collateral consequences that may ensue from graduation and termination.	IV A
X	<input type="checkbox"/>	25	The Juvenile Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV A
X	<input type="checkbox"/>	26	The goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only few infractions.	IV A
X	<input type="checkbox"/>	27	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV F
X	<input type="checkbox"/>	28	Drug testing is performed at least twice a week.	VII G
X	<input type="checkbox"/>	29	Drug testing is random, and is available on weekend and holidays.	VII B
X	<input type="checkbox"/>	30	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII B

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	31	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII G
X	<input type="checkbox"/>	32	The Juvenile Drug Court utilizes scientifically and valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII G
X	<input type="checkbox"/>	33	Metabolite levels falling below industry-or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII I
X	<input type="checkbox"/>	34	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII I
X	<input type="checkbox"/>	35	The program requires at least 90 days clean to graduate.	
X	<input type="checkbox"/>	36	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	37	Unless a participant poses an immediate risk to public safety, detention sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV J
X	<input type="checkbox"/>	38	Detention sanctions are definite in duration and typically last no more than three to five days.	IV J
X	<input type="checkbox"/>	39	Participants are given access to counsel and a fair hearing if a detention sanction might be imposed.	IV J
X	<input type="checkbox"/>	40	Participants are not terminated from Juvenile Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV K
X	<input type="checkbox"/>	41	If a participant is terminated from the Juvenile Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. R BPS* IV K	V.I.
X	<input type="checkbox"/>	42	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services.	V B
X	<input type="checkbox"/>	43	Treatment providers are licensed or certified to deliver substance abuse treatment. R BPS V H	V H
X	<input type="checkbox"/>	44	Participants are not excluded from participation in DUI Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V J
X	<input type="checkbox"/>	46	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each staffing meeting. R BPS VII A*	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each Juvenile Drug Court session.	VII A
X	<input type="checkbox"/>	48	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII B
X	<input type="checkbox"/>	49	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VII C

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	50	Court fees are reasonable and based on each participant's ability to pay.	
X	<input type="checkbox"/>	51	Treatment fees are based on a sliding fee schedule.	
X	<input type="checkbox"/>	52	A skilled and independent evaluator examines the drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X D
X	<input type="checkbox"/>	53	The Juvenile Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I A
X	<input type="checkbox"/>	2	The program admits only participants who are high risk need as measure by a validated risk and need assessment tool.	I B
X	<input type="checkbox"/>	3	The Juvenile Drug Court attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, and evidence-based substance abuse and mental health treatment, behavior modification and community supervision.	III A
X	<input type="checkbox"/>	4	The judge presides over the Juvenile Drug Court for no less than two consecutive years.	III B
X	<input type="checkbox"/>	5	The Juvenile Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV F
X	<input type="checkbox"/>	6	Phase promotion is predicted on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time	IV I
X	<input type="checkbox"/>	7	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV I
X	<input type="checkbox"/>	8	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII B
X	<input type="checkbox"/>	9	Drug Testing results are available within 48 hours.	VII H
X	<input type="checkbox"/>	10	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII D
X	<input type="checkbox"/>	11	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS).	VII G
X	<input type="checkbox"/>	12	Standardized patient placement criteria govern the level of care that is provided.	V A
X	<input type="checkbox"/>	13	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Juvenile Drug Court's programmatic phase structure.	V A
X	<input type="checkbox"/>	14	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	15	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V E
X	<input type="checkbox"/>	16	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V F
X	<input type="checkbox"/>	17	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V H
X	<input type="checkbox"/>	18	Participants suffering from mental illness receive mental health services beginning in the first phase of Juvenile Drug Court and continuing as needed throughout their enrollment in the program.	V I
X	<input type="checkbox"/>	19	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	V L
X	<input type="checkbox"/>	20	Clients are placed in the program within 50 days of screening for eligibility.	
X	<input type="checkbox"/>	21	Team members are assigned to Juvenile Drug Court for no less than two years.	
X	<input type="checkbox"/>	22	All team members use electronic communication to contemporaneously communicate about Juvenile Drug Court issues.	
X	<input type="checkbox"/>	23	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Juvenile Drug Courts.	VIII F
X	<input type="checkbox"/>	24	New staff hires receive a formal orientation training on the Juvenile Drug Court model and best practices in DUI Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII F
<input type="checkbox"/>	X	25	The Juvenile Drug Court has more than 15 but less than 125 active participants.	IX C
X	<input type="checkbox"/>	26	The Juvenile Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X A
X	<input type="checkbox"/>	27	New referrals, new arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Juvenile Drug Court.	X C
X	<input type="checkbox"/>	28	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X G
<input type="checkbox"/>	X	29	The program conducts an exit interview for self-improvement.	
YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Juvenile Drug Court regularly monitor whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II B XE

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	2	The Juvenile Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, day treatment, intensive outpatient and outpatient services.	V B
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V E
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V E
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Treatment providers administer behavioral or cognitive –behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the juvenile justice system.	V F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	6	Treatment providers have substantial experience working with juvenile justice populations.	V H
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Juvenile Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), other major anxiety disorders.	VI E
<input checked="" type="checkbox"/>	<input type="checkbox"/>	8	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	9	Female participants receive trauma-related services in gender-specific groups.	VI F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	10	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI F
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group, as appropriate, after their discharge from the Juvenile Drug Court.	VJ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	VJ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	13	Before starting a Juvenile Drug Court, team members attend a formal pre-implantation training to learn from expert faculty about best practices in Juvenile Drug Courts and develop fair and effective policies and procedures for the program.	VII F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	14	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicted complementary services.	X
<input type="checkbox"/>	<input checked="" type="checkbox"/>	15	Information relating to the services provided and participant' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Juvenile Drug Court's adherence to best practices and in-program outcomes.	X F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	16	Outcomes are examined for all eligible participants who entered the Juvenile Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. B BPS X H	X H

UTAH JUDICIAL COUNCIL
MENTAL HEALTH COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: WEBER COUNTY, OGDEN

NAME: JUDGE HYDE

REVIEW DATE: JANUARY 2020

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Mental health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Mental health Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Mental health Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental health Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Mental health Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Mental health Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Mental health Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental health Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
			other appearances or administrative reviews when the judge is unavailable.	
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Mental health Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental health Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Mental health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Mental health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
X	<input type="checkbox"/>	30	Upon entering the Mental health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Mental health Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Mental health Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Mental health Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Mental health Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Mental health Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of mental health court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			attend each Mental health Court session.	
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Mental health Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Mental health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Mental health Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Mental health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Mental health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Mental health Court judge attends current training events on legal and constitutional issues in Mental health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Mental health Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental health Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental health Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Mental health Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental health Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Mental health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Mental health Court.	VI.I.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of eligibility screening.	
X	<input type="checkbox"/>	31	Team members are assigned to Mental health Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Mental health Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental health Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Mental health Court model and best practices in Mental health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Mental health Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Mental health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental health Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Mental health Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Mental health Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Mental health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.

YES	NO	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Mental health Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Mental health Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Mental health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental health Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
X	<input type="checkbox"/>	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
FAMILY DEPENDENCY COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: DAVIS COUNTY, FARMINGTON

JUDGE NAME: NEILL

REVIEW DATE: JANUARY 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the BPS column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Family dependency court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Family dependency court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Family dependency court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Family dependency court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Family dependency court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Family dependency court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Family dependency court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Family dependency court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			other appearances or administrative reviews when the judge is unavailable.	
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Family dependency court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Family dependency court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Family dependency court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Family dependency court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
X	<input type="checkbox"/>	30	Upon entering the Family dependency court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Family dependency court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Family dependency court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Family dependency court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Family dependency court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Family dependency court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of family dependency court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
			dependency courts), and the judge attend each Family dependency court session.	
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Family dependency court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Family dependency court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Family dependency court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Family dependency court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Family dependency court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Family dependency court judge attends current training events on legal and constitutional issues in Family dependency courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Family dependency court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Family dependency court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Family dependency court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Family dependency court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Family dependency court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Family dependency court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Family dependency court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Family dependency court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Family dependency court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Family dependency court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Family dependency courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Family dependency court model and best practices in Family dependency courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Family dependency court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Family dependency court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Family dependency court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Family dependency court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Family dependency court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Family dependency court, treatment providers or clinical case managers attempt to contact previous participants periodically by	V.J.

YES	NO	#	NON-CERTIFICATION RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
			telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Family dependency courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Family dependency court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Family dependency court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Family dependency courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Family dependency court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Family dependency court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Family dependency court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Family dependency court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
MENTAL HEALTH COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: SALT LAKE CITY, SALT LAKE COUNTY

NAME: JUDGE BRERETON

REVIEW DATE: DECEMBER 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the BPS column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Mental health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Mental health Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Mental health Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental health Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Mental health Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Mental health Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Mental health Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental health Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			other appearances or administrative reviews when the judge is unavailable.	
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Mental health Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental health Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Mental health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Mental health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless	VII.G.*

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			such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
X	<input type="checkbox"/>	30	Upon entering the Mental health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
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X	<input type="checkbox"/>	36	Participants are not terminated from the Mental health Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
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X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Mental health Court focusing on relapse prevention and continuing care.	V.J.
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X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of mental health court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge	VIII.A.*

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			attend each Mental health Court session.	
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Mental health Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Mental health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Mental health Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Mental health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Mental health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Mental health Court judge attends current training events on legal and constitutional issues in Mental health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Mental health Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.

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X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental health Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental health Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Mental health Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental health Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Mental health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Mental health Court.	VI.I.

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X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of eligibility screening.	
X	<input type="checkbox"/>	31	Team members are assigned to Mental health Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Mental health Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental health Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Mental health Court model and best practices in Mental health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Mental health Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Mental health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental health Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Mental health Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Mental health Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Mental health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.

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X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Mental health Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Mental health Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Mental health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental health Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
X	<input type="checkbox"/>	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
MENTAL HEALTH COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: SALT LAKE CITY, SALT LAKE COUNTY

NAME: JUDGE TREASE

REVIEW DATE: DECEMBER 2019

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Mental health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Mental health Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Mental health Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental health Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Mental health Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Mental health Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Mental health Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental health Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.

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X	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Mental health Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental health Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental health Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Mental health Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental health Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Mental health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Mental health Court.	VI.I.

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X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of eligibility screening.	
X	<input type="checkbox"/>	31	Team members are assigned to Mental health Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Mental health Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental health Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Mental health Court model and best practices in Mental health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Mental health Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Mental health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental health Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Mental health Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>		BPS
X	<input type="checkbox"/>	1	The Mental health Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Mental health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.

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X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Mental health Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Mental health Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Mental health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental health Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
X	<input type="checkbox"/>	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
MENTAL HEALTH COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: UTAH COUNTY, PROVO

NAME: JUDGE BRADY

REVIEW DATE: MARCH 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Mental health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Mental health Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Mental health Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental health Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Mental health Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Mental health Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Mental health Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental health Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for	III.E.

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			other appearances or administrative reviews when the judge is unavailable.	
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Mental health Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental health Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Mental health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Mental health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless	VII.G.*

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			such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
X	<input type="checkbox"/>	30	Upon entering the Mental health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Mental health Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Mental health Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Mental health Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Mental health Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Mental health Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of mental health court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge	VIII.A.*

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			attend each Mental health Court session.	
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Mental health Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Mental health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Mental health Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

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X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Mental health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Mental health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Mental health Court judge attends current training events on legal and constitutional issues in Mental health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
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X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	X	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	X	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Mental health Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	X	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Mental health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental health Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: WEST JORDAN, SALT LAKE COUNTY

JUDGE NAME: HOGAN

REVIEW DATE: JANUARY 2020

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

YES NO		PRESUMED CERTIFICATION CRITERIA		BPS
		#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES NO		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	X	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

YES NO		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

UTAH JUDICIAL COUNCIL
JUVENILE DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: Utah COUNTY, PROVO

NAME: JUDGE SMITH

REVIEW DATE: DECEMBER 2019

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The juvenile drug team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.	I.A.
X	<input type="checkbox"/>	4	Candidates for the Juvenile Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	C
X	<input type="checkbox"/>	5	Candidates for the Juvenile Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	C
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	C
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Juvenile Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Juvenile Drug Court.	D
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Juvenile Drug Court.	D
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Juvenile Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	D
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	The Juvenile Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. R BPS II D	II D
X	<input type="checkbox"/>	12	Each member of the Juvenile Drug Court team attends up-to-date training events on recognizing implicit biases and correcting disparate impacts for members of historically disadvantaged groups. R BPS II F	II F
X	<input type="checkbox"/>	13	Participants ordinarily appear before the same judge throughout their enrollment in Juvenile Drug Court. R BPS III B	III B
X	<input type="checkbox"/>	14	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for the performance are discussed by the Juvenile Drug	III D

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			Court team. R BPS III D	
X	<input type="checkbox"/>	15	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program.	III E
X	<input type="checkbox"/>	16	Status hearings are scheduled no less frequently than every four weeks until participants graduates.	III E
X	<input type="checkbox"/>	17	The judge spends an average of at least three minutes with each participant.	III F
X	<input type="checkbox"/>	18	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III G
X	<input type="checkbox"/>	19	If a participant has difficulty expressing him herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV B
X	<input type="checkbox"/>	20	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III H VIII D
X	<input type="checkbox"/>	21	The judge makes these decisions after taking into consideration the input of other Juvenile Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III H VIII D
X	<input type="checkbox"/>	22	The judge relies on the expert input of duly trained treatment professional when imposing treatment-related conditions.	III H
X	<input type="checkbox"/>	23	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV A
X	<input type="checkbox"/>	24	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and legal collateral consequences that may ensue from graduation and termination.	IV A
X	<input type="checkbox"/>	25	The Juvenile Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV A
X	<input type="checkbox"/>	26	The goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only few infractions.	IV A
X	<input type="checkbox"/>	27	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV F
X	<input type="checkbox"/>	28	Drug testing is performed at least twice a week.	VII G
X	<input type="checkbox"/>	29	Drug testing is random, and is available on weekend and holidays.	VII B
X	<input type="checkbox"/>	30	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII B

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	31	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII G
X	<input type="checkbox"/>	32	The Juvenile Drug Court utilizes scientifically and valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII G
X	<input type="checkbox"/>	33	Metabolite levels falling below industry-or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII I
X	<input type="checkbox"/>	34	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII I
X	<input type="checkbox"/>	35	The program requires at least 90 days clean to graduate.	
X	<input type="checkbox"/>	36	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	37	Unless a participant poses an immediate risk to public safety, detention sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV J
X	<input type="checkbox"/>	38	Detention sanctions are definite in duration and typically last no more than three to five days.	IV J
X	<input type="checkbox"/>	39	Participants are given access to counsel and a fair hearing if a detention sanction might be imposed.	IV J
X	<input type="checkbox"/>	40	Participants are not terminated from Juvenile Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV K
X	<input type="checkbox"/>	41	If a participant is terminated from the Juvenile Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. R BPS* IV K	V.I.
X	<input type="checkbox"/>	42	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services.	V B
X	<input type="checkbox"/>	43	Treatment providers are licensed or certified to deliver substance abuse treatment. R BPS V H	V H
X	<input type="checkbox"/>	44	Participants are not excluded from participation in DUI Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V J
X	<input type="checkbox"/>	46	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each staffing meeting. R BPS VII A*	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each Juvenile Drug Court session.	VII A
X	<input type="checkbox"/>	48	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII B
X	<input type="checkbox"/>	49	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VII C

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	50	Court fees are reasonable and based on each participant's ability to pay.	
X	<input type="checkbox"/>	51	Treatment fees are based on a sliding fee schedule.	
X	<input type="checkbox"/>	52	A skilled and independent evaluator examines the drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X D
X	<input type="checkbox"/>	53	The Juvenile Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I A
X	<input type="checkbox"/>	2	The program admits only participants who are high risk need as measure by a validated risk and need assessment tool.	I B
X	<input type="checkbox"/>	3	The Juvenile Drug Court attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, and evidence-based substance abuse and mental health treatment, behavior modification and community supervision.	III A
X	<input type="checkbox"/>	4	The judge presides over the Juvenile Drug Court for no less than two consecutive years.	III B
X	<input type="checkbox"/>	5	The Juvenile Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV F
X	<input type="checkbox"/>	6	Phase promotion is predicted on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time	IV I
X	<input type="checkbox"/>	7	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV I
X	<input type="checkbox"/>	8	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII B
X	<input type="checkbox"/>	9	Drug Testing results are available within 48 hours.	VII H
X	<input type="checkbox"/>	10	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII D
X	<input type="checkbox"/>	11	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS).	VII G
X	<input type="checkbox"/>	12	Standardized patient placement criteria govern the level of care that is provided.	V A
X	<input type="checkbox"/>	13	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Juvenile Drug Court's programmatic phase structure.	V A
X	<input type="checkbox"/>	14	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	15	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V E
X	<input type="checkbox"/>	16	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V F
X	<input type="checkbox"/>	17	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V H
X	<input type="checkbox"/>	18	Participants suffering from mental illness receive mental health services beginning in the first phase of Juvenile Drug Court and continuing as needed throughout their enrollment in the program.	V I
X	<input type="checkbox"/>	19	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI L
X	<input type="checkbox"/>	20	Clients are placed in the program within 50 days of screening for eligibility.	
X	<input type="checkbox"/>	21	Team members are assigned to Juvenile Drug Court for no less than two years.	
X	<input type="checkbox"/>	22	All team members use electronic communication to contemporaneously communicate about Juvenile Drug Court issues.	
X	<input type="checkbox"/>	23	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Juvenile Drug Courts.	VIII F
X	<input type="checkbox"/>	24	New staff hires receive a formal orientation training on the Juvenile Drug Court model and best practices in DUI Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII F
<input type="checkbox"/>	X	25	The Juvenile Drug Court has more than 15 but less than 125 active participants.	IX C
X	<input type="checkbox"/>	26	The Juvenile Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X A
X	<input type="checkbox"/>	27	New referrals, new arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Juvenile Drug Court.	X C
X	<input type="checkbox"/>	28	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X G
X	<input type="checkbox"/>	29	The program conducts an exit interview for self-improvement.	
YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Juvenile Drug Court regularly monitor whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II B XE

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	2	The Juvenile Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, day treatment, intensive outpatient and outpatient services.	V B
X	<input type="checkbox"/>	3	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V E
X	<input type="checkbox"/>	4	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V E
X	<input type="checkbox"/>	5	Treatment providers administer behavioral or cognitive –behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the juvenile justice system.	V F
X	<input type="checkbox"/>	6	Treatment providers have substantial experience working with juvenile justice populations.	V H
X	<input type="checkbox"/>	7	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Juvenile Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), other major anxiety disorders.	VI E
X	<input type="checkbox"/>	8	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI F
X	<input type="checkbox"/>	9	Female participants receive trauma-related services in gender-specific groups.	VI F
X	<input type="checkbox"/>	10	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI F
X	<input type="checkbox"/>	11	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group, as appropriate, after their discharge from the Juvenile Drug Court.	VJ
X	<input type="checkbox"/>	12	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	VJ
X	<input type="checkbox"/>	13	Before starting a Juvenile Drug Court, team members attend a formal pre-implantation training to learn from expert faculty about best practices in Juvenile Drug Courts and develop fair and effective policies and procedures for the program.	VII F
X	<input type="checkbox"/>	14	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicted complementary services.	X
X	<input type="checkbox"/>	15	Information relating to the services provided and participant' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Juvenile Drug Court's adherence to best practices and in-program outcomes.	X F
X	<input type="checkbox"/>	16	Outcomes are examined for all eligible participants who entered the Juvenile Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. B BPS X H	X H

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: BOX ELDER COUNTY, BRIGHAM CITY

JUDGE NAME: MAYNARD

REVIEW DATE: MARCH 2020

*Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	X	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

YES NO		#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

Tab 9

MEMORANDUM

TO: JUDICIAL COUNCIL MANAGEMENT COMMITTEE

FROM: JUDGE DAVID HAMILTON

SUBJECT: UNIFORM FINE SCHEDULE

DATE: 4/8/2020

CC. UNIFORM FINE COMMITTEE

Management Committee Members

On April 7 and May 5, 2020 the Uniform Fine Committee fka Uniform Fine and Bail Committee (UFBC) met via WebEx to consider various matters. The Committee approved recommended adjustments to the Fine Schedule based upon legislative changes , Wildlife Resources requests , State Parks requests , other requests , certain changes to SMOT and other matters proposed by the Committee. These proposed adjustments will be presented in a format to be separately provided after completion by Clayson Quigley and Nikki Bizek.

The Committee further considered reports from Michael Drechsel on HB485 , HB 206 and from Keisa Williams on other aspects of HB206. HB485 mandates that the security surcharge be increased by \$10. Judges retain discretion on fines but the additional surcharge impacts the ultimate distribution of the fine related money. The specifics of the monetary impact will be provided through separate presentations. It was clear that in order to stay "even", considering the additional surcharge and its destination, that fines would need to be increased by a like sum. Therefore, the Committee recommends that each fine be increased by \$10. That increase is reflected in the Preamble.

The Committee has created a significantly amended version of the Preamble, and recommends approval, see attached. The new Preamble is concise, coordinated and in concert with HB 206 requirements e.g. pretrial release and payment in lieu of mandatory appearances .The amended Preamble incorporates multiple changes away from "bail" references, including the name of the Schedule and the name of the Committee. Other changes are designed to provide a cleaner reference for sentencing judges and easier application of appropriate factors. Amendments likely will be required to several rules , including 1-205, 3-407, 4-302, 4-609, 4-701, 4-704, 4-705, 6-302, 10-1-404 , the Rules in Appendix F of the Record Retention and elsewhere upon approval of the amended Preamble. Keisa Williams will separately provide appropriate comments and revisions.

Respectfully submitted,

David R. Hamilton
District Judge, chair

UNIFORM FINE SCHEDULE

INTENT

It is the intent of the Uniform Fine Schedule to assist the sentencing judge in determining the appropriate fine to be imposed as a condition of the sentence in a particular case and to minimize disparity in sentencing for similar offenses and offenders. This schedule is not intended to supplant or to minimize a court's authority to impose a just sentence.

APPLICABILITY

These guidelines shall apply to all courts of record and not of record whenever a criminal fine may be imposed.

In determining whether a fine is appropriate to impose as a condition of the sentence for a public offense, a judge should consider several factors, including aggravating and/or mitigating circumstances set forth in the [Adult Sentencing and Release Guidelines](#), Tab 6, the cumulative effect of probation conditions, and the ability of the defendant to pay.

The amounts listed in the Uniform Fine Schedule may be used as a starting point for setting monetary bail as a condition of pretrial release, however, an individual's ability to pay must be considered in accordance with Utah Code section 77-20-1. Section 77-20-1 addresses additional pretrial release conditions and considerations.

In those parking, traffic, and infraction cases where the defendant is not required to appear and is mailed a citation indicating the fine amount, pursuant to Utah Code of Judicial Administration Rule 4-701, the amount may be increased \$50 if the defendant fails to appear or to pay within fourteen days after receiving the citation. The amount may be increased by an additional \$75 if the defendant fails to appear or to pay within forty days after receiving the citation. For information on how to calculate the surcharge on delinquent enhancements, contact the Administrative Office of the Courts.

TRAFFIC RELATED OFFENSES

Overweight Violations

The assessing court shall retain the first \$50 of the fine for offenses under Utah Code sections 72-7-404 and 72-7-406. The remainder of the fine shall be paid in accordance with Utah Code section 78A-7-120. *See* Gross Weight Chart for fines.

Traffic

A \$30 accident fee may be added to traffic violations resulting in an accident.

In either adult or juvenile court, if an accident has occurred, it may be considered by the court as an aggravating circumstance, and the fine/amount for the cited offense (which caused the accident) may be increased by the indicated amount.

All traffic offenses involving personal injury or death require a MANDATORY APPEARANCE.

A credit of \$8 may be applied towards a fine imposed on any motor vehicle violation for the operator of a motorcycle or motor-driven cycle, class 3 electric assisted bicycle or auticycle not fully enclosed if the operator was 21 years old at the time of violation AND the operator was wearing protective head gear (Utah Code section 41-6a-1505), except for DUI offenses.

Nonresident Violator Compact

At the present time the following states are not members of the Nonresident Violator Compact (NRVC) and will not act on a request to suspend the driver's license of a person, who has been issued a traffic citation in the State of Utah and who failed to appear or contact the court on the citation: Alaska, California, Michigan, Montana, Oregon, and Wisconsin.

All other states, including the District of Columbia, are members of this compact and, with the exception of the following traffic offenses, will act on a request to suspend a driver license if the request reaches that state within six months of the date of the violation:

1. Those offenses requiring a mandatory appearance such as driving under the influence; failure to stop in the event of an accident causing death, personal injuries, or damage to property; and offenses that the directors of the compact have determined to require a mandatory appearance such as driving on suspension, driving on revocation, etc.
2. Parking or standing violations.
3. Highway weight limit violations.
4. Violations of the law governing the transportation of hazardous materials.

Because a request under the NRVC must reach a state within six months, it must be received by the Utah Driver License Division no later than 5 months after the issuance of the citation. There is no FTC in the NRVC, only FTAs. If partial payment is accepted by the court, that payment constitutes an appearance and the court cannot issue an FTC against the out-of-state driver.

PROCEEDING ON CITATION

Utah Code section 77-7-21 allows that in certain circumstances, a court may proceed with a matter on citation in lieu of an information. It states that where provided in the Uniform Fine Schedule, an individual may remit a fine without making a personal appearance before the court. Proceeding on citation, however, is permitted in limited cases and may not be allowed under circumstances specified in Utah Code section 77-7-21(1)(b).

For any class B or class C misdemeanor or any infraction listed as "Mandatory Appearance," the court may allow a defendant to voluntarily remit the fine and other penalties in lieu of appearance, unless the charge:

1. is a domestic violence offense;
2. is a DUI or driving with measurable controlled substance offense; or
3. appears to affect a victim or requires restitution.

For all other infractions, the court may allow the defendant to voluntarily remit the fine and other penalties in lieu of appearance.

SENTENCING

The felony matrix and misdemeanor matrix are guidelines for assessing penalties and fines after adjudication of a case requiring a mandatory appearance. The matrices include a broad range of fines from the statutory maximum to a base minimum within each category of offense. The matrices are to be used in conjunction with the criminal history assessment criteria. From the base financial sanction in each category, the schedules provide an escalation of the fine in correlation with the points accumulated in the criminal history criteria. The matrices also specify when both incarceration and a fine may be appropriate. Pre-sentence investigation reports include the criminal history data necessary to place the defendant's case on the matrix. In those cases where a pre-sentence report is not available, a defendant's criminal history should be verified before placing the defendant's case on the matrix. The defendant's ability to pay should be considered in determining whether or not to impose a fine and, if a fine is imposed, in establishing a payment plan.

CRIMINAL HISTORY ASSESSMENT FOR USE IN SENTENCING

The General Disposition Matrix, consistent with the Utah [Adult Sentencing and Release Guidelines \(Forms 1 & 5\)](#), classifies a defendant's criminal history in 5 categories from excellent (0-3 points), good (4-7 points), moderate (8-11 points), fair (12-15 points), and poor (16+ points). The appropriate classification is determined by summing points assessed in the Criminal History Scoring Section of Forms 1 & 5 of the Utah Adult Sentencing and Release Guidelines.

In assessing fines for Class A and B Misdemeanor offenses, excluding statutorily mandated fine amounts, the criminal disposition matrix is as follows:

GENERAL DISPOSITION MATRIX		
Misdemeanors		
CRIMINAL HISTORY	Class A Misdemeanors	Class B Misdemeanors
	Persons or Drugs	Persons or Drugs
POOR	\$2,500	\$1,000
FAIR	\$2,010	\$860
MODERATE	\$1,510	\$660
GOOD	\$1,010	\$460
EXCELLENT	\$510	\$260

THE AMOUNTS IN THIS MATRIX DO NOT INCLUDE THE SURCHARGE.

Additional Considerations in Assessing Fines:

- Fines for Class C Misdemeanors may be assessed from \$100 to \$750 using the same classification considerations per Utah Code section 76-3-301.
- Consider Jail on 2nd Offense.
- Fines for infractions may be assessed from \$0 to \$500.
- Credit is allowed towards fines for time served in jail at the rate of \$100 day.
- Credit is allowed towards fines for community service at a rate of not less than \$10/hr., per Utah Code section 76-3-301.7.

2020 UNIFORM FINE SCHEDULE

ANY OFFENSE NOT SPECIFICALLY NAMED ON THE FINE SCHEDULE AND NOT CONTAINED IN A SPECIFIC FINE SCHEDULE SHALL BE AS FOLLOWS:		
<u>FELONIES</u>	<u>FINE</u>	<u>COMMENTS</u>
<ul style="list-style-type: none"> • 1st degree with minimum mandatory sentence 	\$25,000	Mandatory Appearance
<ul style="list-style-type: none"> • Other 1st degree 	\$20,000	Mandatory Appearance
<ul style="list-style-type: none"> • 2nd degree 	\$10,000	*Mandatory Appearance
<ul style="list-style-type: none"> • 3rd degree 	\$5,000	*Mandatory Appearance
<u>MISDEMEANORS OTHER THAN LOCAL ORDINANCES</u>	Recommended/Maximum	
<ul style="list-style-type: none"> • Class A 	\$1960/ 2500	*Mandatory Appearance
<ul style="list-style-type: none"> • Class B 	\$690/1000	*Mandatory Appearance
<ul style="list-style-type: none"> • Class C 	\$350/ 750	
<ul style="list-style-type: none"> • Infractions 	**\$110/750	
<u>LOCAL ORDINANCES</u>	Recommended/Maximum	
<ul style="list-style-type: none"> • Class B 	\$350/1000	*Mandatory Appearance
<ul style="list-style-type: none"> • Class C 	\$180/750	
<ul style="list-style-type: none"> • Infractions 	\$110/750	

* Unless otherwise authorized by Utah Code of Judicial Administration, Rule 7-301 and Utah Code section 77-7-21

** On an infraction, defendant cannot be held in jail in lieu of posting the fine.

***Local ordinances are subject to security surcharge.

****The amounts listed in the Uniform Fine Schedule may be used as a starting point for setting monetary bail as a condition of pretrial release, however, an individual's ability to pay must be considered in accordance with Utah Code section 77-20-1. Section 77-20-1 addresses additional pretrial release conditions and considerations.

GUIDE TO THE UNIFORM FINE SCHEDULE

The Uniform Fine Schedule is published in both .pdf (Adobe Acrobat) and .xls (Excel) file formats. The .pdf format is organized for ease of printing and the .xls format has been provided for ease in sorting. You can access these files at:

http://www.utcourts.gov/resources/rules/ucja/append/c_fineba/

Violation Code Column (Violation Code)

The code for the violation based on Utah statute.

Description Column (Description)

Description of the applicable violation.

Mandatory Appearance Column (Man App)

This column is marked Y (Yes) if a court appearance is required to resolve this offense or N (No) if no appearance is necessary and the offense can be resolved by paying the designated fine.

Default Severity Column (Deflt Sev)

The severity of the offense as determined by statute.

Suggested Fine Column, Includes Security Surcharge (\$60) (Suggest Fine)

The total Suggested Fine and Security Surcharge. This includes the \$60 security surcharge for justice courts.

Compliance Credit Column (Comp Credit)

This is the amount of credit given for complying with violation requirements prior to resolving the offense. The "Comment" column describes the compliance required.

Non-Moving Traffic Column (Non Mov)

This column is marked Y (Yes) if the offense is a non-moving traffic violation and N (No) if the offense is not a non-moving traffic violation. No surcharge should be imposed in non-moving traffic offenses. The Utah Judicial Council, through the designated Uniform Fine Committee, has the responsibility to define which offenses are moving and which are non-moving. They have established definitions as follows: Moving violations involve an act or omission dealing with the actual driving of the motor vehicle, *e.g.*: failure to yield, speeding. Non-moving violations encompass status or conditions of the vehicle or driver license violations, *e.g.*: not registered, not licensed, broken equipment.

Surcharge Column (Surch)

Utah Code section 51-9-401(1)(a) provides that “[a] surcharge shall be paid on all criminal fines, penalties and forfeitures imposed by the courts.” It also provides that “[t]he surcharge shall be (i) 90% upon conviction of a (A) felony; (B) class A misdemeanor; (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances, or (ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.” Under the statute, a surcharge may not be imposed: “(a) upon non-moving traffic violations; (b) upon court orders

when the offender is ordered to perform compensatory service work in lieu of paying a fine; and (c) upon penalties assessed by the juvenile court as part of the non-judicial adjustment of a case under Section 78A-6-602.”

Report to Driver License Division Column (DLD Rpt)

This column will be marked Y (Yes) if the offense is reportable to the Utah Driver License Division and N (No) if not reportable. All states and the Canadian Provinces are members of the compact that shares information regarding convictions for traffic violations. If the convicted violator has a Utah, an out-of-state, or a Canadian driver license, a record of a conviction for an offense with a “Y” in this column will be sent to the Utah Driver License Division within 10 days of the conviction or bail forfeiture. *See* Utah Code section 77-7-25 and Utah Code section 53-3-218.

A plea in abeyance in Utah will not assess points to a driving record. A plea in abeyance may be handled differently in the motorist’s home state.

Plea in Abeyance

For a Utah non-CDL (commercial driver license) driver:

A plea in abeyance does not assess points on the driver’s motor vehicle record (MVR).

For a CDL (commercial driver license) driver:

A plea in abeyance will be reflected as a citation on the MVR for a CDL driver because federal law prohibits the Driver License Division (DLD) from masking or deferring judgment for a traffic citation for CDL drivers. If the violation requires a mandatory CDL license disqualification, DLD will also take action on an abeyance.

For a non-resident, non-CDL driver:

A plea in abeyance disposition may or may not result in assessed points on a license issued in a NRVC (Non-Resident Violator Compact) state. Drivers should contact their home state driver license division to determine if a plea in abeyance disposition in Utah will be recognized as a conviction or a diversion.

Report to Bureau of Criminal Identification Column (BCI Rpt)

This column will be marked Y (Yes) if the offense is reportable to the Utah Bureau of Criminal Identification (BCI) and N (No) if it is not reportable. Offenses are determined reportable by the Utah Bureau of Criminal Identification.

Transportation Code (Trns)

This column is used to designate transportation requirements for individuals arrested in a county other than the county from which the warrant was issued. (Utah Code of Judicial Administration Rule 4-613.)

C - Requires transportation only within the county.

S - Requires transportation within the state.

Unless otherwise ordered by the court, warrants for the following offenses will require transportation from the county in which the defendant is arrested:

- felonies.
- class A misdemeanors.
- class B misdemeanors charged under Utah Code, Title 76, Chapter 5 (Offenses Against the Person), Title 76, Chapter 10, Part 5 (Weapons), and Title 41, Chapter 6a, Part 5 (Driving Under the Influence and Reckless Driving).

Unless otherwise ordered by the court, warrants for the following offenses will require transportation only within the county from which the warrant originates:

- class B misdemeanors not included in the felony, class A and B Misdemeanors noted above.
- class C misdemeanors.

Comment Column (Comments)

This field may contain comments regarding offense codes.

Violation Code	Description	Deflt Sev	Man App	Suggest Bail	Comp Credit	Non Mov	Surch	Trns	Comments	Changes
19-4-109(7)(A)	REIMBURSEMENT FOR EXPENSES VIOLATION	MB	N	\$680	\$0	N	90%	C		Created new offense from SB088
20A-2-301(5)	FAIL TO DELIVER VOTER REGISTRATION	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-3A-403(2)	FRAUDS AND MALFEASANCE IN VOTING BY ELECTION OFFICER	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-3A-501	PROHIBITED VOTING ACTIVITY	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-3A-502	INTIMIDATION/UNDUE INFLUENCE FOR VOTE OR REFRAIN FROM VOTE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-3A-503	EMPLOYER INFLUENCE OF EMPLOYEE'S VOTE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-3A-504	ALLOW BALLOT SHOW W/INTENT TO REVEAL VOTE-INTERFERE W/VOTER	MC	N	\$340	\$0	N	35%	C		Created new offense from HB0036
20A-3A-506	FALSE INFORMATION OR PROVISIONAL BALLOT ENVELOPE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-11-206(6)(C)(I)	FAIL TO FILE OR AMEND REPORT BY STATE OFFICE CANDIDATE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-11-305(6)(C)(I)	FAIL TO FILE OR AMEND REPORT BY LEGISLATIVE OFFICE CANDIDATE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
20A-11-136((C)(I)	FAIL TO FILE OR AMEND REPORT BY SCHOOL BOARD OFFICE CANDIDATE	MB	N	\$680	\$0	N	90%	C		Created new offense from HB0036
23-27-306	FAIL TO REMOVE DRAIN PLUG OR SIMILAR DEVICE DURING TRANSPORT	MC	N	\$340	\$0	N	35%	C		Created new offense from HB0255
26-61a-103(7)(B)	NEG/RECKLESSLY RELEASE INFO FROM STATE ELEC VERIF SYSTEM	MC	N	\$340	\$0	N	35%	C		Created new offense from SB0121
26-61A-204(1)(A)	CARDHLDR POSSESS MEDICAL CANNABIS W/O CARRYING CARD	IN	N	\$100	\$0	N	35%	C		Created new offense from SB0121
26-61A-204(2)(C)(I)	CARDHLDR POSSESS MED CANNABIS - > LEGAL LIMIT AND = < 2X LEGAL LIMIT	IN	N	\$100	\$0	N	35%	C		Created new offense from SB0121
26-61A-204(2)(C)(II)	CARDHLDR POSSESS MED CANNABIS - > LEGAL LIMIT AND = < 2X LEGAL LIMIT 2ND + OFF	MB	N	\$1,000	\$0	N	35%	C		Created new offense from SB0121
26-61A-204(2)(E)(I)	NON-RES PATIENT POSS MED CANN NOT IN MEDICINAL FORM	IN	N	\$100	\$0	N	35%	C		Created new offense from SB0121
26-61A-204(2)(E)(II)	NON-RES PATIENT POSS MED CANN NOT IN MEDICINAL FORM 2ND + OFF	MB	N	\$680	\$0	N	35%	C		Created new offense from SB0121
26-61A-605(6)(A)	TRANSPORT MED CANNABIS SHIPMENT W/O REQUIRED MANIFEST	IN	N	\$100	\$0	N	35%	C		Created new offense from SB0121
4-41A-404(4)(A)	TRANSPORT MED CANNABIS W/O REQUIRED MANIFEST	IN	N	\$100	\$0	N	35%	C		Created new offense from SB0121
41-3-301	FAIL TO DELIVER TITLE (DEALER)	MB	Y	\$680	\$0	N	90%	C		Changed from MA to MB per 41-3-701 effective 10/1/2019
41-6A-715	VEHICLE EQUIPMENT REQUIRED DURING INCLEMENT WEATHER	IN	N	\$100	\$0					Repealed
41-6A-1119	PERSONAL DELIVERY DEVICE VIOLATION	IN	N	\$150	\$0	N	35%	C		Created new offense from HB0277
41-6A-1302(2)	FAILURE TO OBSERVE FLASHING AMBER / RED LIGHTS ON SCHOOL BUS	MC	N	\$250	\$0	N	35%	C	10 hours compensatory service	HB0084 Changes fine to minimum of \$250 and adds 10 hrs compensatory service.
41-6A-1302(2)(A)	FAILURE TO OBSERVE FLASHING AMBER LIGHTS ON SCHOOL BUS	MC	N	\$250	\$0	N	35%	C	10 hours compensatory service	HB0084 Changes fine to minimum of \$250 and adds 10 hrs compensatory service.
41-6A-1302(2)(B)	FAILURE TO OBSERVE FLASHING RED LIGHTS ON SCHOOL BUS	MC	N	\$250	\$0	N	35%	C	10 hours compensatory service	HB0084 Changes fine to minimum of \$250 and adds 10 hrs compensatory service.
41-6A-1302{2ND OFF}	FAILURE TO STOP FOR SCHOOL BUS 2ND OFFENSE	MC	Y	\$500	\$0	N	35%	C	20 hours compensatory service	HB0084 Changes fine to minimum of \$500 and adds 20 hours compensatory service.
41-6A-1302{3RD OFF}	FAIL TO STOP FOR SCHOOL BUS 3 OR MORE OFFENSES W/IN 3 YRS	MC	Y	\$1,000	\$0	N	35%	C	40 hours compensatory service	HB0084 Changes fine to minimum of \$1000 and adds 40 hours compensatory service.
41-6A-209(2)(A)	SPEEDING IN A CONSTRUCTION/MAINTENANCE ZONE	IN	N	\$170	\$0	N	35%	C	See Speeding Chart for examples of statutory defined adjustments for mph over the limit	Removed in favor of 41-6a-209(2)(a)
41-6A-305(5)	STOP TO BE MADE AT SIGN/MARKING OR SIGNAL FOR HWY-RAIL LINE	IN	N	\$120	\$0	N	35%	C		See email. Question: Should this be mandatory appearance?
41-6A-401(2)(A)(III)	FAIL TO REMAIN AT SCENE OF ACCIDENT UNTIL REQUIREMENTS ARE FULFILLED	MB	Y	\$500	\$0		90%			Removed
41-6A-520(7)(B)	REFUSAL OF CHEMICAL TEST	MB		See Statute +\$100	\$0	N	90%	S		HB0139 - Any fine imposed shall be \$100 more than would be required under Section 41-6a-505
41-6A-702	LEFT LANE RESTRICTED/VEHICLE OVER 18,000	IN	N	\$250	\$0	N	35%	C		HB0151 - Change description to 18,000

41-6A-704(2)	IMPEDING TRAFFIC IN THE LEFT LANE	IN	N	\$120	\$0	Y	35%	C		Added by the committee
41-6A-704(5)	UNLAWFUL LANE FILTERING	IN	N	\$120	\$0	Y	35%	C		Added Violation per email request.
41-6A-904	FAIL TO STOP FOR EMERGENCY VEHICLE/OBEY WARNING LIGHTS	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(1)	FAIL TO YIELD OR STOP UPON APPROACHING EMERGENCY VEHICLE	IN	N	\$150	\$0	N	35%	C		HB0151 - Chane to IN
41-6A-904(1)(A)	FAIL TO STOP FOR EMERGENCY VEHICLE	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(2)	VIOLATE DUTIES OF VEHICLE OPERATOR APPROACHING EMERGENCY VEH	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(2)(A)	FAIL TO REDUCE SPEED WHEN APPROACHING EMERGENCY VEHICLE	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(3)	FAIL TO REDUCE SPEED WHEN APPR TOW OR HWY MAINTENANCE VEH	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(3)(A)	FAIL TO REDUCE SPEED WHEN APPR HWY MAINTENANCE	IN	N	\$150	\$0	N	35%	C		HB0151 - Change to IN
41-6A-904(4)	FAIL TO CAUTION TO AN AUTHORIZED EMERGENCY VEHICLE	IN	N	\$150	\$0	N	35%	C		Created new offense HB0151
52-4-305	CLOSED MEETING VIOLATION	MB	Y	\$680	\$0		90%			Removed
53C-2-301(4)(D)	ILLEGAL ACTIVITIES ON TRUST LAND DAMAGES/LOSS < \$500	MB	Y	\$680	\$0	N	90%	C		Created new offense HB0335
53G-6-202	PARENT FAILS TO ACT ON COMPULSORY EDUCATION	MB	Y	\$380	\$0					Removed
53G-6-202(5)	PARENT FAILS TO ENROLL SCHOOL AGE MINOR IN SCHOOL	MB	Y	\$380	\$0	N	90%	C		Offense added per email request
53G-6-202(6)	PARENT FAILS TO ACT ON COMPULSORY EDUCATION	MB	Y	\$380	\$0	N	90%	C		Offense added per email request
58-37-3.9(3)(C)	CARDHOLDER SMOKING CANNABIS	IN	N	\$100	\$0	N	35%	C		Created new offense SB0121
58-37-6(7)(I)	LICENSED PRACTITIONER DISPENSE C/S TO CHILD W/OUT CONSENT	MB	Y	\$680	\$0	N	90%	C	Enhanceable Offense	Renumbered from 58-37-6(7)(H) HB0177
58-37-6(7)(J)	LICENSED PRACTITIONER ADMINISTERS C/S IN EXCESS QUANTITY	MB	Y	\$680	\$0	N	90%	C	Enhanceable Offense	Renumbered from 58-37-6(7)(I) HB0177
58-37-6(7)(K)	LIC PRACT NOT TO DISPENSE CONTROLLED SUB KNOWING ID IS FALSE	MB	Y	\$680	\$0	N	90%	C	Enhanceable Offense	Renumbered from 58-37-6(7)(J) HB177
58-37-7(7)(A)	FAILURE TO KEEP PRESCRIPTION IN ORIGINAL CONTAINER	MB	Y	\$680	\$0					Removed
63A-5-502	MAKING KEYS TO A PUBLIC, POLITICAL, COLLEGE, OR UNIV W/OUT PERMISSION	MB	N	\$680	\$0	N	90%	C		Renumbered
63A-5B-1103	MAKING KEYS TO A PUBLIC, POLITICAL, COLLEGE, OR UNIV W/OUT PERMISSION	MB	N	\$680	\$0	N	90%	C		HB0451 Replaces 63A-5-502
63G-24-103	PROVIDE/DISCLOSE PROTECTED PERSONAL INFORMATION	MC	N	\$340	\$0	N	35%	C		Created new offense SB0171
63M-7-510(3)	FRAUDULENT CRIME VICTIM REPARATIONS CLAIM - NO AWARD RECEIVED	MB	Y	\$680	\$0	N	90%	C		HB0435 - Repeal. Now included in 63M-7-510(2)(a)
76-10-111(3)(A)	GIFT/DIST FOR FREE SMOKELESS TOBACCO/E-CIG	MC	N	\$340	\$0	N	35%	C		Created new offense HB0023
76-10-111(3)(B)	GIFT/DIST FOR FREE SMOKELESS TOBACCO/E-CIG SUBSQ OFF	MB	N	\$680	\$0	N	90%	C		created new offense HB0023
76-10-1104	GAMBLING PROMOTION	MA	Y	\$680	\$0	N	90%	S		SB0214 Change to MA - remove from UFBS as it is no longer an MB
76-10-1105	POSSESS A GAMBLING DEVICE/RECORD	MA	Y	\$680	\$0	N	90%	S		SB0214 Change to MA - remove from UFBS as it is no longer an MB
76-5-107.1(2)(B)(II)	THREAT AGAINST SCHOOLS - PREVENT/INTERRUPT OCCUPANCY	MB	Y	\$680	\$0	N	90%	S		HB0171
76-5-107.1(2)(C)	THREAT AGAINST SCHOOLS - CAUSE OFFICIAL/VOLUNTEER TO TAKE ACTION	MC	Y	\$340	\$0	N	35%	S		HB0171
76-8-301(1)(B)	OBSTRUCT, HINDER, CONCEAL, PREVENT LAWFUL SERVICE BY AUTHORIZED PERSON	MB	Y	\$680	\$0	N	90%	S		HB0073 Change description to OBSTRUCT, HINDER, CONCEAL, PREVENT LAWFUL SERVICE BY AUTHORIZED PERSON
76-8-304(1)	DISRUPTION OF LEGISLATURE IN SESSION	MB	Y	\$680	\$0	N	90%	S		SB0173 - Repeal
76-8-304(1)(C)	DISRUPTION OF AN OFFICIAL MEETING	MB	Y	\$680	\$0	N	90%	S		SB0173 - Repeal
76-9-102(1)	DISORDERLY CONDUCT	IN	N	\$150	\$0	N	35%	C	Enhanceable Offense	Created new offense SB0173
76-9-102(4)(A)	DISORDERLY CONDUCT	IN	N	\$150	\$0	N	35%	C	Enhanceable Offense	Created new offense SB0173
76-9-102(4)(B)	DISORDERLY CONDUCT AFTER BEING ASKED TO CEASE	MC	N	\$340	\$0	N	35%	C	Enhanceable Offense	Created new offense SB0173
76-9-102(4)(C)	DISORDERLY CONDUCT AFTER BEING ASKED TO CEASE AND SUBS VIOL W/IN 5 YEARS	MB	Y	\$680	\$0	N	90%	C	Enhanceable Offense	Created new offense SB0173
78B-7-802(1)	VIOLATION OF A JAIL RELEASE AGREEMENT/JAIL RELEASE COURT ORDER	MB	Y	\$680	\$0	N	90%	C		HB0403 - Repeal 77-20-3.5, 77-20-3.5(2)(a)
R657-56-15	VIOLATING WALK-IN ACCESS PROPERTY RULES	IN	N	\$140	\$0		35%			Removed
392.9B	NO OR INACTIVE USDOT NUMBER	MB	N	\$120	\$0					Removed

Proposed Court Internet Site Revisions – Uniform Fine Committee/Schedule

May, 2020

https://www.utcourts.gov/resources/rules/ucja/append/c_fineba/

Court Fine and Bail Forfeiture Schedule

Uniform Fine/~~Bail Forfeiture~~ Schedule

This schedule contains state misdemeanor and infraction offenses charged in Utah district and justice courts. It is updated after each legislative session.

- The “2020 Uniform Fine Schedule” will go here
- 2019 State of Utah Uniform Fine/Bail Forfeiture Schedule. Updated May 2019 - [PDF](#) | [Excel](#)
- Changes to the 2019 State of Utah Uniform Fine/Bail Forfeiture Schedule. Updated May 2019 - [PDF](#) | [Excel](#)

A [Shared Master Offense Table \(SMOT\)](#) contains all active state, county and municipal offense codes.

<https://www.utcourts.gov/howto/traffic/>

Traffic Offenses

Fines

The Uniform Fine/~~Bail Forfeiture Schedule and the Bail~~ Schedule for Justice Courts provide information about the [fine or bail for each offense](#). This is what the judge uses to determine the fine ~~or bail~~ for the offense.

Court Appearances

The [Uniform Fine/~~Bail Forfeiture Schedule~~](#) specifies which offenses require you to come to court.

Most infractions - such as parking violations - do not require you to appear in court, and can be handled by paying the fine online, **or by mailing the bail amount to the court listed on the citation.** If you are [paying the fine online](#), you will need to know your citation number or your court case number. Not all courts use the online ePayment system. If your case is in one of those courts, [contact them](#) to discuss payment options.

Violations Reported to the Driver License Division

Conviction of some traffic offenses - such as speeding - are reported to the [Utah Driver License Division](#) (driverlicense.utah.gov) within ten days of the conviction or payment of the fine. Some non-moving violations, such as lack of registration, are not reported. **Chapter 1** of the ~~Uniform Fine~~ [Uniform Fine/~~Bail Forfeiture Schedule~~](#) provides information about whether or not a conviction must be reported to the Driver License Division.

Utah shares information about traffic violation convictions with all states and all Canadian provinces.

<https://www.utcourts.gov/courts/just/resources.html>

Justice Court Resources

Training and Reference Materials

- [Retention Schedule Summary](#)
Summary of the retention schedule for justice courts.
- [Utah Uniform Fine and Bail Schedule](#)
- Breath Alcohol Ignition Interlock Device Provider List - [PDF](#)
- Getting Legal Help: Questions and Answers about Court Appointed Counsel - [PDF](#)
- [Online Course: The Role of the Supervisor in Building Effective Teams](#)

Resources

- [Utah Uniform Fine and Bail Schedule](#)
 - Domestic Violence 101 - [PDF](#)
A user-friendly Manual on Domestic Violence for Police and Prosecutors. 4th Edition - Utah Attorney General's Office
-

<https://www.utcourts.gov/courts/dist/>

District Court

[Overview of District Court](#)

Learn about your district court.

[District Court Judges](#)

Read District Court Judges biographies in the Gallery of Judges.

[Jury Service](#)

General Jury information, Online Qualification.

[Model Utah Jury Instructions](#)

[Drug Courts](#)

Learn what drug courts are and how they make a difference.

[District Court Fine and Bail Schedule](#)

Fine and bail amount information.

<https://www.utcourts.gov/main/publications.html>

Court Publications

[Court Fine & Bail Schedule](#)

[Court Reports](#)

Reports of the judiciary.

[Court Statistics](#)

Fiscal year caseload summaries.

Guide to the Courts (Guía a los Tribunales) - [PDF](#) | [PDF \(Español\)](#)

[Judicial Ethics Opinions](#)

View judicial ethics opinions: Code of Judicial Conduct, Code of Judicial Conduct Annotated, Judicial Decisions

[Juvenile Court Fine & Bail Schedule](#)

<https://www.utcourts.gov/selfhelp/criminal.php?s=y>

Self-Help Resources / Criminal Justice

1. [Criminal penalties](#)
2. [Summary of criminal procedures](#)
3. [Financial declaration for restitution](#)
4. [Pleas in abeyance under CJA 4-704](#)
5. [Sex Offender Registry](#)
6. [Motion to Remove Link Between Personal Identifying Information and Dismissed Criminal Court Case](#)
7. [Court fine and bail schedule](#)
8. [Utah Office for Victims of Crime](#)
9. [Expunging adult criminal records](#)
10. [VineLink - Victim Notification](#)

Common Links

- [Expunging adult criminal records](#)
- [Motion to reduce conviction \(402 motion\)](#)
- [Traffic offenses](#)
- [Court fine and bail schedule](#)

<https://www.utcourts.gov/courts/juv/juvsites/3rd/forms/>

3rd District Juvenile Court: Forms and Pamphlets

- Community Service Worksheet - [PDF](#)
- Drug Court Pamphlet - [PDF](#)
- Drug Testing Policy - [PDF](#)
- [Emancipation Forms](#)
- [Expungement Forms](#)
- [Fine and Bail Schedule](#)
- House Arrest Policy - [PDF](#)
- [Information for Victims Pamphlet](#)
- Probation Order - [PDF](#)
- Probation Pamphlet - [PDF](#)
- State Supervision Probation Order - [PDF](#)
- Utah's Juvenile Court Pamphlet - [PDF](#)
- Work Program Application - [PDF](#)

<https://www.utcourts.gov/howto/courtprocess/criminal.html>

Criminal Processes

Related Information

- [Appeals](#)
- Civil Procedures - [English](#) / [Español](#)
- [Court Fine and Bail Schedule](#)
- [Criminal Penalties](#)
- [Expunging Adult Criminal Records](#)
- [Expunging Juvenile Records](#)
- [Financial Declaration for Restitution](#)
- [Going to Court](#)
- [Motion to Reduce Conviction \(402 Motion\)](#)
- [Petition to remove name from Sex Offender and Kidnap Offender Registry](#)
- [Pleas in Abeyance](#)
- [Sex Offender Registry](#)
- [Traffic Offenses](#)

<https://www.utcourts.gov/selfhelp/>

Criminal Justice

- [Expunging adult criminal records](#)
- [Motion to reduce conviction \(402 motion\)](#)
- [Traffic offenses](#)
- [Court fine and bail schedule](#)
- [Show me more Criminal Justice topics...](#)

Court Intranet Sites to be Revised – Uniform Fine Committee/Schedule

Internal Accounting Control Questionnaire

<https://www.utcourts.gov/intranet/just/onlinelearning/InternalAccounting/>

Justice Court Judges

<https://www.utcourts.gov/intranet/just/judges.html>

District Court Clerks

<https://www.utcourts.gov/intranet/dist/distclerk.html>

Justice Court Judges Benchbook 2015

https://www.utcourts.gov/intranet/just/benchbook/Justice_Benchbook.pdf

Justice Court Evaluation Tool

<https://www.utcourts.gov/intranet/just/audit/docs/jcevaltool.pdf>

Pre-Adjudication Mandatory Appearance

<https://www.utcourts.gov/intranet/just/audit/docs/2%20Pre%20Adjudication%20Mandatory%20Charge%20Flow%20Chart.pdf>

Adjust Topic Final 091906

https://www.utcourts.gov/intranet/just/audit/forms/Adjustment_Procedures_Using_CORI_S.pdf

Disposition of Fines Fees Forfeitures Justice Court (effective May 9, 2017)

<https://www.utcourts.gov/intranet/just/audit/docs/DispositionofJusticeCourtsFinesFeesandForfeitures.pdf>

Accounting Reports

https://www.utcourts.gov/intranet/clerktraining/resources/docs/Accounting_Reports.pdf

Suggested Accounting Procedures (March 2008)

https://www.utcourts.gov/intranet/just/acctguide/Suggested_Accounting_Procedures.pdf

Legal Advice and GRAMA

https://www.utcourts.gov/intranet/just/justiceanswers/Legal_Advice_and_GRAMA.pdf

Entering and Amending Charges (4/2015)

https://www.utcourts.gov/intranet/clerktraining/resources/docs/Entering_and_Amending_Charges.pdf

AOC Resource Guide (Updated March 21, 2020)

<https://www.utcourts.gov/intranet/admin/directory/AOCResource.pdf>

JVJUST – Driver License Suspension – 6/16

https://www.utcourts.gov/intranet/just/cqr/docs/Driver_License_Suspension.pdf

Separation of critical duties in transaction cycles (11/18/19)

<https://www.utcourts.gov/intranet/audit/forms/docs/Separation%20of%20critical%20duties%20in%20transaction%20cycles.pdf>

My Workspace – A reference Gide – Justice Court (2/2018)

https://www.utcourts.gov/intranet/just/docs/My_Workspace-Justice_Court.pdf

Small Claims in Justice Court – 7/10

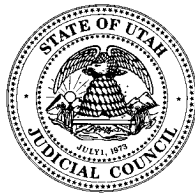
https://www.utcourts.gov/intranet/clerktraining/resources/docs/Small_Claims-Justice_Court.pdf

New Employee Brochure (06?)

https://www.utcourts.gov/intranet/hr/ems/archives/New_Employee_Brochure.pdf

Tab 10

Agenda



Administrative Office of the Courts

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

May 8, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Keisa Williams

RE: Rules for Expedited Approval (Related to Uniform Fine Schedule & HB 206)

On May 5, 2020, the Uniform Fine and Bail Committee met to address adjustments to the Fine Schedule, conduct a revision of the preamble, and review pretrial release and ability-to-pay amendments related to HB 206. In discussing those issues, it was determined that several rules in the Code of Judicial Administration should be amended at the same time. Some of the rules listed below require expedited approval to coincide with changes to the Uniform Fine Schedule, others can be addressed through the normal rulemaking process. Proposed amendments to the Court's website are outlined in a separate attachment.

Relevant to this discussion, [HB 206](#) amends all references to the schedule to the "uniform fine schedule." The bill sponsor neglected to change the title of 77-7-21 (line 193 of HB 206), but throughout that section language referring to the "voluntary forfeiture of bail" has been removed and instead states that defendants may "remit fines." The title change was an oversight and Mike Drechsel plans to bring the issue to the sponsor's attention. Another minor oversight is found in 77-20-4(2)(b) (line 530 of HB 206). In that section, "voluntarily forfeit monetary bail" needs to change to "voluntarily remit a fine."

In 77-20-1(1)(c) (line 275 of the HB 206), "bail" is defined as "release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges." We've never really had a clear definition of bail in the statute until now. It isn't defined elsewhere in the statute and throughout the Code "bail" is used interchangeably to mean both "money" and "release." The correct meaning of the word "bail" is "release," so it's nice to have that clarified in the code somewhere. Currently, the schedule and many court rules also erroneously use "bail" to mean both "money" and "release," and it is used interchangeably in both pre- and post-disposition contexts. All of which necessitate many of the changes proposed here and in the schedule itself.

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

It is recommended that the following proposed rule amendments be approved on an expedited basis with an effective date the same as that of the 2020 Uniform Fine Schedule:

1-205. Standing and ad hoc committees (AMEND)

- Amends the title of the Committee to the “Uniform Fine Committee” (line 36)

4-302. Uniform recommended fine/bail schedule (AMEND)

- Amends the title of the rule to the “Recommended Uniform Fine Schedule” (line 1)
- Deletes “bail” and/or replaces “bail” with “fine” (lines 5-6, 18-22, 44, 47, 52, 54)
- Deletes “and a youth offender schedule” because the Uniform Fine Schedule no longer includes fines regarding youth, minors, or juvenile court (line 30)
- In regard to presentence investigation reports, deletes “prepared by the Department of Corrections” and the “Juvenile Court Probation Department” because that is not always the case (line 36)

4-701. Failure to appear (AMEND)

- Replaces “forfeit bail” with “remit a fine” (lines 5, 12, 16)
- Replaces “bail” with “fine” (11, 13, 17)

4-704. Authority of court clerks (AMEND)

- Replaces “bail” with “fine” (lines 4, 13, 40-41)
- Replaces “forfeit bail” with “remit a fine” (lines 45)
- Changes the name of the schedule to the “Uniform Fine Schedule” (lines 16, 22, 41)

6-301. Authority of court commissioner as magistrate (AMEND)

- Amends “bail” to “fines” (line 14)

App. B. Justice Court Standards (AMEND)

- Amends “bail schedule” to “fine schedule” (line 133)
- Renumbered and reformatted for clarity purposes and consistency with other CJA Rules

App. F. Utah State Courts Records Retention Schedule (AMEND)

- Changes the name of the schedule to the “Uniform Fine Schedule” (lines 151, 156, 181)
- Minor changes to formatting for clarity purposes

Amendments to the rules below are related to HB 206 alone (effective October 1, 2020) and can be sent to Policy and Planning for review and approval through the usual rulemaking process:

3-407. Accounting.

- Amends “bail” to “monetary bail” to align with the definition in HB 206 (lines 72, 84-85).
- The Finance Department is recommending additional changes unrelated to the Fine Schedule or HB 206:

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

- Adds “or designee,” to provide the State Court Administrator with the option of designating another person to appoint members of the Accounting Manual Review Committee. In practice, the Deputy State Court Administrator makes those appointment (line 37).
- Updates examples of funds held in trust accounts, removing “child support” because we no longer receive or distribute those funds, and adding “attorney fees” because those funds make up a large percentage of trust account monies (line 72).

4-609. Procedure for obtaining fingerprints and Offense Tracking Numbers on defendants who have not been booked into jail (AMEND)

- Under the requirements for booking personnel when obtaining fingerprints and OTNs, replaces release the defendant “without bail” with “on their own recognizance.” (line 40)

10-1-404. Attendance and assistance of prosecutors in criminal proceedings (AMEND)

- Amends “bail” to “monetary bail” to align with the definition in HB 206 (line 18)

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

1 **Rule 1-205. Standing and Ad Hoc Committees.**

2 **Intent:**

3 To establish standing and ad hoc committees to assist the Council and provide recommendations
4 on topical issues.

5 To establish uniform terms and a uniform method for appointing committee members.

6 To provide for a periodic review of existing committees to assure that their activities are
7 appropriately related to the administration of the judiciary.

8 **Applicability:**

9 This rule shall apply to the internal operation of the Council.

10 **Statement of the Rule:**

11 (1) **Standing Committees.**

12 (1)(A) **Establishment.** The following standing committees of the Council are hereby
13 established:

14 (1)(A)(i) Technology Committee;

15 (1)(A)(ii) Uniform Fine Schedule Committee;

16 (1)(A)(iii) Ethics Advisory Committee;

17 (1)(A)(iv) Judicial Branch Education Committee;

18 (1)(A)(v) Court Facility Planning Committee;

19 (1)(A)(vi) Committee on Children and Family Law;

20 (1)(A)(vii) Committee on Judicial Outreach;

21 (1)(A)(viii) Committee on Resources for Self-represented Parties;

22 (1)(A)(ix) Language Access Committee;

23 (1)(A)(x) Guardian ad Litem Oversight Committee;

24 (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;

25 (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;

26 (1)(A)(xiii) Committee on Pretrial Release and Supervision; and

27 (1)(A)(xiv) Committee on Court Forms.

28 (1)(B) **Composition.**

29 (1)(B)(i) The Technology Committee shall consist of:

30 (1)(B)(i)(a) one judge from each court of record;

31 (1)(B)(i)(b) one justice court judge;

- 32 (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
33 (1)(B)(i)(d) two court executives;
34 (1)(B)(i)(e) two court clerks; and
35 (1)(B)(i)(f) two staff members from the Administrative Office.

36 (1)(B)(ii) The Uniform Fine/~~Bail~~ Schedule Committee shall consist of:

- 37 (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
38 (1)(B)(ii)(b) three district court judges who have experience with a
39 misdemeanor docket; and
40 (1)(B)(ii)(c) four justice court judges.

41 (1)(B)(iii) The Ethics Advisory Committee shall consist of:

- 42 (1)(B)(iii)(a) one judge from the Court of Appeals;
43 (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
44 (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
45 (1)(B)(iii)(d) one juvenile court judge;
46 (1)(B)(iii)(e) one justice court judge; and
47 (1)(B)(iii)(f) an attorney from either the Bar or a college of law.

48 (1)(B)(iv) The Judicial Branch Education Committee shall consist of:

- 49 (1)(B)(iv)(a) one judge from an appellate court;
50 (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
51 (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
52 (1)(B)(iv)(d) one juvenile court judge;
53 (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
54 (1)(B)(iv)(f) one state level administrator;
55 (1)(B)(iv)(g) the Human Resource Management Director;
56 (1)(B)(iv)(h) one court executive;
57 (1)(B)(iv)(i) one juvenile court probation representative;
58 (1)(B)(iv)(j) two court clerks from different levels of court and different
59 judicial districts;
60 (1)(B)(iv)(k) one data processing manager; and
61 (1)(B)(iv)(l) one adult educator from higher education.
62 (1)(B)(iv)(m) The Human Resource Management Director and the adult
63 educator shall serve as non-voting members. The state level
64 administrator and the Human Resource Management Director
65 shall serve as permanent Committee members.

- 66 (1)(B)(v) The Court Facility Planning Committee shall consist of:
- 67 (1)(B)(v)(a) one judge from each level of trial court;
- 68 (1)(B)(v)(b) one appellate court judge;
- 69 (1)(B)(v)(c) the state court administrator;
- 70 (1)(B)(v)(d) a trial court executive;
- 71 (1)(B)(v)(e) two business people with experience in the construction or
- 72 financing of facilities; and
- 73 (1)(B)(v)(f) the court security director.
- 74 (1)(B)(vi) The Committee on Children and Family Law shall consist of:
- 75 (1)(B)(vi)(a) one Senator appointed by the President of the Senate;
- 76 (1)(B)(vi)(b) the Director of the Department of Human Services or designee;
- 77 (1)(B)(vi)(c) one attorney of the Executive Committee of the Family Law
- 78 Section of the Utah State Bar;
- 79 (1)(B)(vi)(d) one attorney with experience in abuse, neglect and dependency
- 80 cases;
- 81 (1)(B)(vi)(e) one attorney with experience representing parents in abuse,
- 82 neglect and dependency cases;
- 83 (1)(B)(vi)(f) one representative of a child advocacy organization;
- 84 (1)(B)(vi)(g) the ADR Program Director or designee;
- 85 (1)(B)(vi)(h) one professional in the area of child development;
- 86 (1)(B)(vi)(i) one mental health professional;
- 87 (1)(B)(vi)(j) one representative of the community;
- 88 (1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;
- 89 (1)(B)(vi)(l) one court commissioner;
- 90 (1)(B)(vi)(m) two district court judges; and
- 91 (1)(B)(vi)(n) two juvenile court judges.
- 92 (1)(B)(vi)(o) One of the district court judges and one of the juvenile court
- 93 judges shall serve as co-chairs to the committee. In its discretion
- 94 the committee may appoint non-members to serve on its
- 95 subcommittees.
- 96 (1)(B)(vii) The Committee on Judicial Outreach shall consist of:
- 97 (1)(B)(vii)(a) one appellate court judge;
- 98 (1)(B)(vii)(b) one district court judge;
- 99 (1)(B)(vii)(c) one juvenile court judge;

- 100 (1)(B)(vii)(d) one justice court judge; one state level administrator;
101 (1)(B)(vii)(e) a state level judicial education representative;
102 (1)(B)(vii)(f) one court executive;
103 (1)(B)(vii)(g) one Utah State Bar representative;
104 (1)(B)(vii)(h) one communication representative;
105 (1)(B)(vii)(i) one law library representative;
106 (1)(B)(vii)(j) one civic community representative; and
107 (1)(B)(vii)(k) one state education representative.
108 (1)(B)(vii)(l) Chairs of the Judicial Outreach Committee's subcommittees
109 shall also serve as members of the committee.
- 110 (1)(B)(viii) The Committee on Resources for Self-represented Parties shall consist
111 of:
- 112 (1)(B)(viii)(a) two district court judges;
113 (1)(B)(viii)(b) one juvenile court judge;
114 (1)(B)(viii)(c) two justice court judges;
115 (1)(B)(viii)(d) three clerks of court – one from an appellate court, one from an
116 urban district and one from a rural district;
117 (1)(B)(viii)(e) one representative from the Self-Help Center;
118 (1)(B)(viii)(f) one representative from the Utah State Bar;
119 (1)(B)(viii)(g) two representatives from legal service organizations that serve
120 low-income clients;
121 (1)(B)(viii)(h) one private attorney experienced in providing services to self-
122 represented parties;
123 (1)(B)(viii)(i) two law school representatives;
124 (1)(B)(viii)(j) the state law librarian; and
125 (1)(B)(viii)(k) two community representatives.
- 126 (1)(B)(ix) The Language Access Committee shall consist of:
- 127 (1)(B)(ix)(a) one district court judge;
128 (1)(B)(ix)(b) one juvenile court judge;
129 (1)(B)(ix)(c) one justice court judge;
130 (1)(B)(ix)(d) one trial court executive;
131 (1)(B)(ix)(e) one court clerk;
132 (1)(B)(ix)(f) one interpreter coordinator;
133 (1)(B)(ix)(g) one probation officer;

- 134 (1)(B)(ix)(h) one prosecuting attorney;
- 135 (1)(B)(ix)(i) one defense attorney;
- 136 (1)(B)(ix)(j) two certified interpreters;
- 137 (1)(B)(ix)(k) one approved interpreter;
- 138 (1)(B)(ix)(l) one expert in the field of linguistics; and
- 139 (1)(B)(ix)(m) one American Sign Language representative.
- 140 (1)(B)(x) The Guardian ad Litem Oversight Committee shall consist of:
- 141 (1)(B)(x)(a) seven members with experience in the administration of law and
- 142 public services selected from public, private and non-profit
- 143 organizations.
- 144 (1)(B)(xi) The Committee on Model Utah Civil Jury Instructions shall consist of:
- 145 (1)(B)(xi)(a) two district court judges;
- 146 (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
- 147 (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
- 148 (1)(B)(xi)(d) one person skilled in linguistics or communication.
- 149 (1)(B)(xii) The Committee on Model Utah Criminal Jury Instructions shall consist of:
- 150 (1)(B)(xii)(a) two district court judges;
- 151 (1)(B)(xii)(b) one justice court judge;
- 152 (1)(B)(xii)(c) four prosecutors;
- 153 (1)(B)(xii)(d) four defense counsel;
- 154 (1)(B)(xii)(e) one professor of criminal law; and
- 155 (1)(B)(xii)(f) one person skilled in linguistics or communication.
- 156 (1)(B)(xiii) The Committee on Pretrial Release and Supervision shall consist of:
- 157 (1)(B)(xiii)(a) two district court judges;
- 158 (1)(B)(xiii)(b) one juvenile court judge;
- 159 (1)(B)(xiii)(c) two justice court judges;
- 160 (1)(B)(xiii)(d) one prosecutor;
- 161 (1)(B)(xiii)(e) one defense attorney;
- 162 (1)(B)(xiii)(f) one county sheriff;
- 163 (1)(B)(xiii)(g) one representative of counties;
- 164 (1)(B)(xiii)(h) one representative of a county pretrial services agency;
- 165 (1)(B)(xiii)(i) one representative of the Utah Insurance Department;
- 166 (1)(B)(xiii)(j) one representative of the Utah Commission on Criminal and
- 167 Juvenile Justice;

- 168 (1)(B)(xiii)(k) one commercial surety agent;
- 169 (1)(B)(xiii)(l) one state senator;
- 170 (1)(B)(xiii)(m) one state representative;
- 171 (1)(B)(xiii)(n) the Director of the Indigent Defense Commission or designee;
- 172 and
- 173 (1)(B)(xiii)(o) the court's general counsel or designee.
- 174 (1)(B)(xiv) The Committee on Court Forms shall consist of:
- 175 (1)(B)(xiv)(a) one district court judge;
- 176 (1)(B)(xiv)(b) one court commissioner;
- 177 (1)(B)(xiv)(c) one juvenile court judge;
- 178 (1)(B)(xiv)(d) one justice court judge;
- 179 (1)(B)(xiv)(e) one court clerk;
- 180 (1)(B)(xiv)(f) one appellate court staff attorney;
- 181 (1)(B)(xiv)(g) one representative from the Self-Help Center;
- 182 (1)(B)(xiv)(h) the State Law Librarian;
- 183 (1)(B)(xiv)(i) the Court Services Director;
- 184 (1)(B)(xiv)(j) one representative from a legal service organization that
- 185 serves low-income clients;
- 186 (1)(B)(xiv)(k) one paralegal;
- 187 (1)(B)(xiv)(l) one educator from a paralegal program or law school;
- 188 (1)(B)(xiv)(m) one person skilled in linguistics or communication; and
- 189 (1)(B)(xiv)(n) one representative from the Utah State Bar.
- 190 (1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each
- 191 standing committee. Standing committees shall meet as necessary to accomplish
- 192 their work. Standing committees shall report to the Council as necessary but a
- 193 minimum of once every year. Council members may not serve, participate or vote
- 194 on standing committees. Standing committees may invite participation by others as
- 195 they deem advisable, but only members designated by this rule may make motions
- 196 and vote. All members designated by this rule may make motions and vote unless
- 197 otherwise specified. Standing committees may form subcommittees as they deem
- 198 advisable.
- 199 (1)(D) **Committee performance review.** At least once every six years, the Management
- 200 Committee shall review the performance of each committee. If the Management
- 201 Committee determines that committee continues to serve its purpose, the

202 Management Committee shall recommend to the Judicial Council that the
203 committee continue. If the Management Committee determines that modification of
204 a committee is warranted, it may so recommend to the Judicial Council.

205 (1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight
206 Committee, recognized by Section 78A-6-901, shall not terminate.

207 (2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider
208 topical issues outside the scope of the standing committees and to recommend rules or
209 resolutions concerning such issues. The Council may set and extend a date for the
210 termination of any ad hoc committee. The Council may invite non-Council members to
211 participate and vote on ad hoc committees. Ad hoc committees shall keep the Council
212 informed of their activities. Ad hoc committees may form sub-committees as they deem
213 advisable. Ad hoc committees shall disband upon issuing a final report or recommendations
214 to the Council, upon expiration of the time set for termination, or upon the order of the
215 Council.

216 (3) **General provisions.**

217 (3)(A) **Appointment process.**

218 (3)(A)(i) **Administrator's responsibilities.** The state court administrator shall
219 select a member of the administrative staff to serve as the administrator
220 for committee appointments. Except as otherwise provided in this rule,
221 the administrator shall:

222 (3)(A)(i)(a) announce expected vacancies on standing committees two
223 months in advance and announce vacancies on ad hoc
224 committees in a timely manner;

225 (3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve
226 from each prospective appointee and information regarding the
227 prospective appointee's present and past committee service;

228 (3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve
229 from the prospective reappointee, the length of the prospective
230 reappointee's service on the committee, the attendance record of
231 the prospective reappointee, the prospective reappointee's
232 contributions to the committee, and the prospective reappointee's
233 other present and past committee assignments; and

- 234 (3)(A)(i)(d) present a list of prospective appointees and reappointees to the
235 Council and report on recommendations received regarding the
236 appointment of members and chairs.
- 237 (3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each
238 committee. Whenever practical, appointments shall reflect geographical,
239 gender, cultural and ethnic diversity.
- 240 (3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members
241 shall serve staggered three year terms. Standing committee members shall not
242 serve more than two consecutive terms on a committee unless the Council
243 determines that exceptional circumstances exist which justify service of more than
244 two consecutive terms.
- 245 (3)(C) **Expenses.** Members of standing and ad hoc committees may receive
246 reimbursement for actual and necessary expenses incurred in the execution of their
247 duties as committee members.
- 248 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
249 committees.

250 *Effective May 1, 2020*

1 | **Rule 4-302. ~~Uniform r~~Recommended ~~fine/bail~~Uniform Fine ~~S~~Schedule.**

2
3 | **Intent:**

4
5 | To provide a guideline for courts in setting bail-fines in felony and misdemeanor cases in order
6 | to promote uniformity and consistency in setting bail-fines for similar offenses in all courts.

7
8 | To assist the sentencing judge in determining the appropriate fine to be imposed as a condition
9 | of the sentence in a particular case, and to minimize disparity in sentencing for similar offenses
10 | and offenders.

11
12 | **Applicability:**

13
14 | This rule shall apply to all trial courts of record and not of record.

15
16 | **Statement of the Rule:**

17
18 | (1) The Uniform Fine/~~Bail~~ Schedule Committee shall establish a uniform fine/~~bail~~ schedule
19 | setting forth recommended fine ~~and bail~~ amounts for all criminal and traffic offenses, pursuant to
20 | the Utah Code. The fine/~~bail~~ schedule shall be reviewed and approved by the Council. For
21 | automated courts, the committee shall oversee and monitor input to the computerized fine/~~bail~~
22 | schedule to ensure that the fine/~~bail~~ amounts are consistent with the uniform fine/~~bail~~ schedule
23 | approved by the Council.

24
25 | (2) The recommended fine for each offense shall be proportional to the seriousness of the
26 | offense and the offender's criminal history, and shall be consistent with the Utah Sentencing
27 | Guidelines developed by the Utah Commission on Criminal and Juvenile Justice.

28
29 | (3) The uniform recommended fine schedule shall consist of a felony schedule and, a
30 | misdemeanor schedule ~~and a youth offender schedule~~.

31
32 | (4) The uniform recommended fine schedule shall include criteria for aggravating and mitigating
33 | circumstances, and shall not limit the authority of the court to impose a sentence deemed just in
34 | the discretion of the judge.

35
36 | (5) Presentence investigation reports ~~prepared by the Department of Corrections in felony cases~~
37 | ~~and the Juvenile Court Probation Department in juvenile cases~~ shall include a recommended
38 | disposition for each case based upon the individual's circumstances. The reports shall include a
39 | recommended fine based upon the schedule or a recommendation that no fine be imposed, and
40 | a recommendation of incarceration, probation or other alternative. In Class B misdemeanor
41 | cases, the presentence investigation report shall include such a recommended disposition for
42 | each case if specifically requested by the referring judge.
43

44 | (6) The approved uniform fine/~~bail~~ schedule shall be published as an appendix to this Code and
45 | distributed to appropriate state and local law enforcement agencies.

46

47 | (7) The committee shall meet at least once annually to review the uniform fine/~~bail~~ schedule and
48 | recommend adjustments in the schedule as necessary.

49

50 | (8) Notice of the committee's meetings shall be provided to interested agencies, as designated
51 | by the committee, to provide such agencies an opportunity to appear before the committee and
52 | present proposals for changes to the uniform fine/~~bail~~ schedule.

53

54 | (9) When imposing fines ~~and setting bail~~, courts should conform to the uniform fine/~~bail~~
55 | schedule except in cases where aggravating or mitigating circumstances warrant a deviation
56 | from the schedule.

57

58 | *Effective May __, 2020*

1 **Rule 4-701. Failure to Appear.**

2

3 **Intent:**

4 To establish a procedure for handling cases in which the defendant fails to appear and fails to
5 ~~forfeit bail~~ remit a fine.

6

7 **Applicability:**

8 This rule shall apply to cases in which the defendant's appearance is not required.

9

10 **Statement of the Rule:**

11 (1) When a case is filed, the clerk may mail to the defendant a notice indicating the bail-fine
12 amount. If the defendant fails to appear or ~~forfeit the bail~~ remit the fine amount within fourteen
13 days after receiving a citation, the clerk may increase the bail-fine amount by \$50 and mail the
14 defendant a delinquency notice.

15

16 (2) If the defendant fails to appear or ~~forfeit the bail~~ remit the fine amount within forty days after
17 receiving a citation, the court may increase the bail-fine amount by \$75 and issue a warrant for
18 failure to appear.

19

20 (3) If the defendant is a juvenile, the court may issue a bench warrant or order to take the
21 defendant into custody. If a bench warrant is issued, a special designation or "flag" shall be
22 placed on the warrant indicating that the defendant is a juvenile.

23

24 (4) If a minor fails to appear in juvenile court on a charge which would constitute an infraction if
25 committed by an adult:

26

27 (4)(A) The court shall not issue an Order for Detention.

28

29 (4)(B) The court may authorize the probation department to file an order to show cause.

30

31 | Effective ~~November 1, 2018~~ May , 2020

1 **Rule 4-704. Authority of court clerks.**

2

3 **Intent:**

4 | To establish the authority of court clerks to extend the time for payment of bailfines, to dismiss
5 citations issued for certain offenses, and to accept plea in abeyance agreements in certain
6 limited circumstances.

7

8 **Applicability:**

9 This rule shall apply to all courts of record and courts not of record.

10

11 **Statement of the Rule:**

12 (1) Unless otherwise ordered by the judge, the clerk of the court, for reasonable cause, is
13 | authorized to allow a defendant an extension of time to post bailpay fines.

14

15 (2) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss
16 | citations as provided in the Appendix C, Uniform Fine/~~Bail~~ Schedule.

17

18 **(3) Plea in abeyance agreements.**

19

20 (3)(A) A judge—or if there is a presiding judge, the presiding judge—may direct the clerk
21 of court to accept a plea in abeyance agreement in traffic offenses that are listed in
22 | Appendix C, Uniform Fine/~~Bail~~ Schedule as not requiring an appearance by the
23 defendant. The clerk of court shall follow the procedures of Title 77, Chapter 2a, Pleas in
24 Abeyance, including:

25

26 (3)(A)(i) the offer by the prosecutor for a plea in abeyance, including the
27 conditions established under paragraph (3)(B), may be on a case-by-case basis
28 or by a written standing offer;

29

30 (3)(A)(ii) the defendant's waiver of rights and acceptance of that offer shall
31 always be in a writing signed by the defendant; and

32

33 (3)(A)(iii) the plea in abeyance order shall always be in a writing signed by the
34 judge.

35

36 (3)(A)(iv) The writings required by the previous subsections may be included in
37 the same document or record.

38

39 (3)(B) The conditions of a plea in abeyance authorized by this rule may include only
40 | payment of a plea in abeyance fee of no more than \$25.00 above the recommended bail
41 fine in the Uniform Fine/~~Bail~~ Schedule, a period of good behavior not to exceed one
42 year, and, if the offense is a moving violation of Title 41, Chapter 6a, Traffic Code,
43 successfully completing traffic school.

44

45 | (3)(C) If the defendant does not ~~forfeit bail~~remit a fine as established by the court, or
46 | enter a plea in abeyance, the clerk of the court shall process the case for trial.

47 |

48 | (3)(D)The defendant may file a written motion to withdraw a plea in abeyance within 30
49 | days after entry of the plea. If the defendant timely moves to withdraw a plea, the clerk of
50 | the court shall set the matter before the judge.

51 |

52 | *Effective May __, 2020*

1 **Rule 6-301. Authority of court commissioner as magistrate.**

2

3 **Intent:**

4 To provide for the authority of a court commissioner to act as a magistrate as required by § 77-
5 1-3.

6

7 **Applicability:**

8 This rule shall apply to court commissioners.

9

10 **Statement of the Rule:**

11 A court commissioner may exercise the following authority conferred upon magistrates by the
12 Legislature:

13 (1) issue warrants and summonses in traffic cases; and

14 | (2) set bail-fines in traffic cases.

15

16 *Effective May __, 2020*

1 Appendix B. Justice Court Standards For Recertification

2

3 Instructions to applicant for recertification

4 As part of the application process, each entity should carefully review all requirements for the
5 operation of Justice Courts. In order to aid governing bodies in obtaining the necessary
6 information regarding the continuing obligations of an entity with respect to the operations of the
7 Court, the governing body of each entity must request a written opinion from its attorney
8 advising the entity of all requirements for the operation of a Justice Court, and the feasibility of
9 maintaining a Justice Court. In addition, prior to submission of this application, each entity must
10 duly pass a resolution requesting recertification. The resolution must also affirm that the entity is
11 willing to meet all requirements for the operation of the Court during the period of certification. A
12 copy of the attorney's opinion and the resolution must accompany the application.

13

14 A representative of the entity may appear before the Committee to present the application and
15 may present any additional information which the applicant desires to present to the Committee.
16 In the event that additional information is deemed necessary, the Committee may request such
17 additional information from the applicant. Certification will certify the court to process all cases
18 which come within the jurisdiction of the court including criminal, civil and small claims cases
19 pursuant to Section 78A-7-106.

20

21 **(1) Statutory Requirements.** Statutes of the State of Utah require that certain standards be
22 met in the operation of a Justice Court. These statutory requirements include:

23

24 (1)(A) All official court business shall be conducted in a courtroom or an office located in
25 a public facility which is conducive and appropriate to the administration of justice
26 (Section 78A-7-213).

27

28 (1)(B) Each court shall be opened and judicial business shall be transacted every day as
29 provided by law (Section 78A-7-213), although the judge is not required to be present
30 during all hours that the court is open.

31

32 (1)(C) The hours that the court will be open shall be posted conspicuously at the court
33 and in local public buildings (Section 78A-7-213).

34

35 (1)(D) The judge and the clerk of the court shall attend the court at regularly scheduled
36 times (Section 78A-7-213).

37

38 (1)(E) The entity creating the Justice Court shall provide and compensate a judge and
39 clerical personnel to conduct the business of the court (Section 78A-7-206 and Section
40 78A-7-211).

41

42 (1)(F) The entity creating a Justice Court shall assume the expenses of travel, meals,
43 and lodging for the judge of that court to attend required judicial education and training
44 (Section 78A-7-205).

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(1)(G) The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A-7-211).

(1)(H) The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-209).

(1)(I) The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-209).

(1)(J) The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-209).

(1)(11) Witnesses and jury fees as required by law shall be paid by the entity which creates the Court.

(1)(K) Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Section 78A-7-121 and Section 78A-7-119).

(1)(L) Every entity creating a court shall pay the judge of that court a fixed compensation (Section 78A-7-206).

(1)(M) Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).

(1)(N) The entity creating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (Section 78A-7-214).

(1)(O) All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

(1)(P) An audio recording system shall maintain the verbatim record of all court proceedings. Section 78A-7-103.

(1)(P)(i) For Class I and Class II justice courts, the system must:

(1)(P)(i)(a) be a stand-alone unit that records and audibly plays back the recording;

(1)(P)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.

- 89
90 (1)(P)(i)(c) have at least four recording channels;
91
92 (1)(P)(i)(d) have a one-step "on" and "off" recording function;
93
94 (1)(P)(i)(e) have conference monitoring of recorded audio;
95
96 (1)(P)(i)(f) have external record archiving from the unit with local access;
97
98 (1)(P)(i)(g) be capable of being integrated with the courts public address
99 system; and

100
101 (1)(P)(ii) For Class III and Class IV justice courts, the system must, at a
102 minimum:

103
104 (1)(P)(ii)(a) be a stand-alone unit that records and audibly plays back the
105 recording;

106
107 (1)(P)(ii)(b) index, back-up and archive the recording and enable the
108 record to be retrieved; and

109
110 (1)(P)(ii)(c) have at least two recording channels.

111
112 (1)(P)(iii) The Board of Justice Court Judges may create a list of products that
113 meet these criteria.

114
115 **(2) Judicial Council Minimum Requirements.** In addition to those requirements which are
116 directly imposed by statute, Section 78A-7-103 directs the Judicial Council to promulgate
117 minimum requirements for the creation and certification of Justice Courts. Pursuant to statute,
118 the Judicial Council has adopted the following minimum requirements:

119
120 (2)(A) That the Court be opened for at least one hour each day that the court is required
121 to be open as provided by law (Section 78A-7-213).

122
123 (2)(B) That the judge be available to attend court and conduct court business as needed.

124
125 (2)(C) That the minimum furnishings for a courtroom include: a desk and chair for the
126 judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses,
127 separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a
128 United States flag, a separate area and chairs for at least four jurors, a separate area
129 with appropriate seating for the public, an appropriate room for jury deliberations, and an
130 appropriate area or room for victims and witnesses which is separate from the public. (A
131 suggested courtroom configuration is attached).

132

133 | (2)(D) A judicial robe, a gavel, current bail-fine schedules, a copy of the Code of Judicial
134 Administration, and necessary forms and supplies.

135
136 (2)(E) Office space for the judge and clerk (under certain circumstances this space may
137 be shared, but if shared, the judge and clerk must have priority to use the space
138 whenever needed). The office space shall include a desk for the judge and a desk for
139 the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and
140 a telephone for the clerk, appropriate office supplies to conduct court business, a cash
141 register or secured cash box, a typewriter or word processor, and access to a copy
142 machine.

143
144 (2)(F) A clerk must be present during the time the court is open each day and during
145 court sessions, as required by the judge.

146
147 (2)(G) The entity must have at least one peace officer (which may be contracted).

148
149 (2)(H) A court security plan must be submitted consistent with C.J.A. Rule 3-414.

150
151 (2)(I) Each court must have at least one computer with access to the internet, and
152 appropriate software and security/encryption technology to allow for electronic reporting
153 and access to Driver License Division and the Bureau of Criminal Identification, as
154 defined by the reporting and retrieval standards promulgated by the Department of
155 Public Safety.

156
157 (2)(J) Each court shall report required case disposition information to DLD, BCI and the
158 Administrative Office of the Courts electronically, as described in number 9 above.

159
160 **(3) Classification of Courts Based on Case Filings.** In establishing minimum requirements,
161 the Judicial Council has determined that Justice Courts with higher case filings require greater
162 support services. To accommodate the great differences in judicial activity between Justice
163 Courts within the state, the Council has divided courts into four classes based upon the average
164 monthly cases filed in that court. Minimum standards have been set for each classification.

165
166 (3)(A) **Class IV Courts.** Courts which have an average of less than 61 cases filed each
167 month are classified as Class IV Courts. The minimum requirements for a Class IV Court
168 are stated above. (These requirements are also attached as Class IV minimum
169 requirements). These requirements include both the statutory requirements and
170 requirements promulgated by the Judicial Council, and are sometimes hereinafter
171 referred to as "base requirements."

172
173 (3)(B) **Class III Courts.** Courts which have an average of more than 60 but less than
174 201 cases filed each month are classified as Class III Courts. In addition to the base
175 requirements, a Class III Court must be open more hours each week (see attached

176 Class III minimum requirements), and court must be scheduled at least every other
177 week.

178
179 (3)(C) **Class II Courts.** Courts which have an average of more than 200 but less than
180 501 cases filed each month are classified as Class II Courts. In addition to the base
181 requirements, Class II Courts are required to be open additional hours (see attached
182 Class II minimum requirements), the courtroom configuration is required to be
183 permanent (although the courtroom may be used by another entity when the court is not
184 in session), court must be scheduled at least weekly, the judge must be provided an
185 appropriate office (chambers) for his own use, clerical space may not be shared, at least
186 one full-time clerk must be provided (see attached Class II minimum requirements), and
187 the courtroom, judge's chamber and clerk's office must be in the same building.

188
189 (3)(D) **Class III Courts.** Courts which have an average monthly filing of more than 500
190 cases are classified as Class I Courts. Class I Courts are considered to be full-time
191 courts. In addition to the base requirements, a Class I Court must have a full-time judge,
192 at least three clerks, it must be open during regular business hours, it must have a
193 courtroom which is dedicated for the exclusive use as a court and which meets the
194 master plan guideline adopted by the Judicial Council, and the judge's chambers and
195 clerk's office cannot be shared by another entity.

196
197 **(4) Waivers.** The State Legislature has provided that any Justice Court which continues to meet
198 the minimum requirements for its class is entitled to be recertified. However, the Judicial Council
199 also has authority to waive any minimum requirement which has not been specifically imposed
200 by the Legislature (i.e. requirements 1 - 10 above, which have been adopted by the Judicial
201 Council pursuant to Section 78A-7-103). Waiver is at the discretion of the Judicial Council and
202 will be based upon a demonstrated need for a court to conduct judicial business and upon
203 public convenience. Any waiver will be for the entire term of the certification. A waiver must be
204 obtained through the Judicial Council each time a court is recertified and, the fact that a waiver
205 has been previously granted, will not be determinative on the issue of waiver for any successive
206 application.

207
208 There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are
209 affected by the type of cases filed (some courts have a high percentage of traffic matters, while
210 others handle significant numbers of criminal and small claims matters), the location of the
211 Court, the number of law enforcement agencies served, the policies and procedures followed by
212 each judge with respect to the operation of the Court, and many other factors. Clerical
213 resources and judicial time are particularly sensitive to local conditions. In order to adequately
214 function it is anticipated that some courts will exceed minimum requirements for clerical
215 resources and judicial time. Similarly, the particular circumstances of a court may allow it to
216 operate efficiently with less than the minimum requirements in the above areas; and in such
217 circumstances waiver may be requested.

218

219 **(5) Extensions.** The statute also provides that the Judicial Council may grant an extension of
220 time for any requirement which is not specifically required by statute. An extension may be
221 granted at the discretion of the Judicial Council where individual circumstances temporarily
222 prevent the entity from meeting a minimum requirement. An extension will be for a specific
223 period of time and the certification of the court will terminate at the end of the extension period.
224 In order for the court to continue to operate beyond the extension period, the court must be
225 certified as meeting all requirements, obtain an additional extension, or obtain a waiver as
226 provided above.

227

228 **(6) Judge Certificate.** Applications for existing courts for recertification shall be accompanied
229 by a certificate of the judge, on a form approved by the Judicial Council, certifying that the
230 operational standards for the court have been met during the prior year. Any exceptions to
231 compliance with the minimum requirements or operational standards shall be noted on the
232 above form. In addition, individual Justice Court Judges must meet with the governing body of
233 the entity which created the court at least once a year to review the budget of the court, review
234 compliance with the requirements and operational standards of the court, and discuss other
235 items of common concern and shall certify that this meeting has been held, and that the
236 operational standards for the court have been met during the prior year.

237

238 **(7) Justice Court Standards Committee.** Upon submission of an application, the Justice Court
239 Standards Committee will conduct an appropriate independent investigation and notify the entity
240 of its initial recommendations, whether in favor or against certification. If the Committee intends
241 to recommend against certification, it shall specify the minimum requirements which have not
242 been met. The entity may then present additional information to the Committee, request an
243 extension, or request a waiver. After making an appropriate investigation based upon any
244 additional information or request made by the entity, the Committee will then submit its
245 recommendations to the Judicial Council. The recommendations shall specify whether or not a
246 waiver or extension should be granted, if either has been requested. If the recommendation is
247 against recertification, or against waiver, or against extension, the entity may request that it be
248 allowed to make an appearance before the Judicial Council. Any request to appear before the
249 Judicial Council must be filed within 15 days of notification of the Committee's
250 recommendations.

251

252 If you have any questions concerning this application, please contact James Peters, counsel to
253 the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241,
254 telephone: (801)578-3824.

255

256 *Effective May __, 2020*

1 **Appendix F. Utah State Court Records Retention Schedule**

2
3 **(A) Definitions.**

4
5 **(A)(1) Appellate proceedings.** As applicable to the particular case:

6
7 (A)(1)(a) expiration of the time in which to file an appeal;

8
9 (A)(1)(b) completion of the initial appeal of right;

10
11 (A)(1)(c) completion of discretionary appeals; or

12
13 (A)(1)(d) completion of trial court proceedings after remittitur.

14
15 Appellate proceedings do not include collateral review, such as a petition for post conviction
16 relief or a petition for writ of habeas corpus, although these petitions may themselves be the
17 subject of appellate proceedings.

18
19 **(A)(2) Case file.** The compilation of documents pertaining to a case in the district court and
20 justice court. The compilation of documents pertaining to an individual under the jurisdiction of
21 the juvenile court.

22
23 **(A)(3) Case history.** Includes the docket, judgment docket, registry of judgments, register of
24 actions and other terms used to refer to a summary of the parties and events of a case.

25
26 **(A)(4) Clerk of the court.** Includes all deputy clerks.

27
28 **(A)(5) Confidential records.** Records classified in accordance with the Title 63G, Chapter 2,
29 Government Records Access and Management Act and Rule 4-202 et seq. of the Judicial
30 Council as private, protected, juvenile, or sealed.

31
32 **(A)(6) Critical documents.** As applicable to the particular case:

33
34 (A)(6)(a) **Civil.** Final amended complaint or petition; final amended answer or response;
35 final amended counterclaims, cross claims, and third party claims and defenses; home
36 study or custody evaluation; jury verdict; final written opinion of the court, including any
37 findings of fact and conclusions of law; final trial court order, judgment or decree;
38 interlocutory order only if reviewed by an appellate court; orders supplemental to the
39 judgment and writs that have not expired; notice of appeal; transcripts; appellate briefs;
40 final order, judgment or decree or any appellate court; case history.

41
42 (A)(6)(b) **Child abuse, neglect or dependency.** In addition to that which is required of
43 civil cases, shelter hearing order; adjudication orders; disposition orders; reports of the
44 Division of Child and Family Services; psychological evaluations; reports from treatment

45 providers; motion for permanency hearing; response to motion for permanency hearing;
46 petition for termination of parental rights; and response to petition for termination of
47 parental rights.

48

49 (A)(6)(c) **Divorce and domestic relations.** In addition to that which is required of civil
50 cases, petitions to modify or enforce a final order, judgment or decree and the final order
51 entered as a result of that petition.

52

53 (A)(6)(d) **Felonies, including offenses by a minor in juvenile court.** All documents
54 other than duplicates, subpoenas, warrants, orders to show cause, presentence
55 investigation reports and notices of hearings.

56

57 (A)(6)(e) **Misdemeanors and infractions, including offenses by a minor in juvenile**
58 **court.** Final amended citation or information; jury verdict; final written opinion of the
59 court, including any findings of fact and conclusions of law; final trial court order,
60 judgment or decree; notice of appeal; appellate briefs; final order, judgment or decree or
61 any appellate court; case history.

62

63 (A)(6)(f) **Probate.** In addition to that which is required of civil cases, will admitted to
64 probate; trust instrument; final accounting; reports, findings and orders regarding the
65 mental competence of a person.

66

67 (A)(7) **Document.** Any pleading or other paper filed with or created by the court for a particular
68 case, regardless of medium.

69

70 (A)(8) **Off-site storage.** Storage at the State Records Center under the control of the Division of
71 State Archives.

72

73 (A)(9) **On-site storage.** Storage at the courthouse or any secure storage facility under the
74 control of the court.

75

76 (A)(10) **Retention period.** The time that a record must be kept. The retention period is either
77 permanent or for a designated term of months or years.

78

79 **(B) Case Records.**

80

81 (B)(1) **Objectives.** The objective of the records retention schedule is to maintain convenient
82 access to the documents of the case and to the case history as necessary to the activity in the
83 case. Even in a case in which judgment has been entered there may be substantial activity. In
84 criminal cases, the court can expect affidavits alleging violations of probation and petitions for
85 post conviction relief. In civil cases, the court can expect to issue writs, orders supplemental to
86 the judgment and to conduct other proceedings to collect the judgment. In divorce cases, the
87 court can expect petitions to modify the decree or to enforce visitation and support. This may
88 mean more immediate access in particular cases. The objective of the records retention

89 schedule is to guide the transfer of permanent records to off-site storage and the destruction on
90 non-permanent records.

91

92 (B)(2) **Storage medium.** The decisions of what storage medium to use and when to use it are
93 left to local discretion, needs and resources of the clerk of the court.

94

95 With proper training or by the Division of State Archives the clerk of the court may microfilm
96 records. Given the sensitive nature of identifying information contained in court records, such as
97 name, address, telephone number, and social security number of parties, witnesses and jurors,
98 microfilming of court records by Utah Correctional Industries is prohibited. All microfilming shall
99 be in accordance with the standards adopted by the Division. All microfilm developing and
100 quality assurance checks shall be done by the Division. The Division of State Archives shall
101 keep the original film and return a copy to the court.

102

103 The clerk of the court may scan documents to a digital image based on local needs and
104 resources. Once scanned to a digital image, the document may be destroyed. Electronic
105 documents may be printed and maintained in the case file.

106

107 (B)(3) **Storage location.** The Administrative Office of the Courts shall maintain all computer
108 records. The clerk of the court shall store on site pending cases, closed cases with significant
109 post judgment activity, and cases with a retention period of less than permanent.

110

111 The clerk of the court shall not store case files with significant activity off-site. Records in which
112 there is an order of alimony or child support, visitation or custody shall not be stored off-site until
113 at least three years has expired from the date of the last activity in the case. Within these
114 parameters, the decision to store permanent records on-site or off-site is left to local discretion,
115 needs and resources. The state court records officer and the Division of State Archives may
116 evaluate exceptions for courthouses with critically short storage problems. Records stored off-
117 site shall be prepared in accordance with standards and instructions of the Division of State
118 Archives. If a record stored off-site is needed at the courthouse, the record will be returned to
119 the court for the duration of the need. The clerk of the court shall not return a record in which
120 there is an order of alimony or child support, visitation or custody to off-site storage until at least
121 three years after the last activity in the case.

122

123 (B)(4) **Critical documents.** At any time after the completion of appellate proceedings, the clerk
124 of the court may remove from the case file and destroy all documents other than critical
125 documents.

126

127 (B)(5) **Retention Period.** The retention period in a criminal case begins as of the completion of
128 the sentence. The level of offense is determined by the offense of which the defendant is
129 convicted or to which the offense is reduced under Utah Code Section 76-3-402. The retention
130 period in a civil or small claims case begins as of the expiration or satisfaction of the judgment.
131 The retention periods are for the following terms.

132

133 (B)(5)(a) **Permanent.** All case types not governed by a more specific designation;
134 prosecution as a serious youth offender.

135
136 (B)(5)(b) **10 years.** Third degree felonies; violations of Utah Code Section 41-6a-502 or
137 Section 41-6a-503, or of Section 41-6a-512 if the conviction is to a reduced charge as
138 provided in that section; hospital liens; domestic violence misdemeanors within the
139 scope of Utah Code Section 77-36-1.

140
141 (B)(5)(c) **5 years.** Administrative agency review; civil and small claims cases dismissed
142 with prejudice; forcible entry and detainer; investigative subpoenas; post conviction
143 relief or habeas corpus other than capital offenses and life without parole; tax liens;
144 temporary separation; worker's compensation; probable cause statements and search
145 and arrest warrants not associated with a case.

146
147 (B)(5)(d) **3 years.** Violations of Utah Code Section 53-3-231; violations of Utah Code
148 Section 76-5-303.

149
150 (B)(5)(e) **1 year.** Civil cases with a judgment of money only; extraditions; misdemeanors
151 and infractions classified as "mandatory appearance" by the Uniform Fine ~~and Bail~~
152 Schedule; petitions to expunge an arrest record in which no charges have been filed.

153
154 (B)(5)(f) **6 months.** Civil and small claims cases dismissed without prejudice;
155 misdemeanors and infractions classified as "non-mandatory appearance" by the Uniform
156 Fine ~~and Bail~~ Schedule; small claims cases with a judgment of money only.

157
158 (B)(6) **Retention period in Juvenile Court.** The retention period in a delinquency petition or
159 referral begins as of the completion of the sentence. The retention period in other cases begins
160 as of the expiration of the judgment. The retention periods are for the following terms.

161
162 (B)(6)(a) **Permanent.** Adoptions; civil cohabitant abuse; orders terminating parental
163 rights; prosecution as serious youth offender; substantiation.

164
165 (B)(6)(b) **Until the youngest subject of the petition reaches age 28.** Abuse, neglect
166 and dependency; felonies.

167
168 (B)(6)(c) **Until the subject of the petition reaches age 18 and jurisdiction of the**
169 **court is terminated.** Misdemeanors and infractions other than non-judicial adjustments;
170 interstate compact.

171
172 (B)(6)(d) **10 years.** Violations of Utah Code Section 41-6a-502 or Section 41-6a-503, or
173 of Section 41-6a-512 if the conviction is to a reduced charge as provided in that section.

174
175 (B)(6)(e) **3 years.** Violations of Utah Code Section 53-3-231.

176

177 (B)(6)(f) **1 year.** Petitions to expunge an arrest record in which no charges have been
178 filed.

179
180 (B)(6)(g) **6 months.** Non-judicial adjustment of referrals; misdemeanors and infractions
181 classified as “non-mandatory appearance” by the Uniform Fine ~~and Bail~~ Schedule, such
182 as fish and game violations; cases dismissed without prejudice.

183
184 (B)(7) **Retention period in Supreme Court and Court of Appeals.** The retention period for
185 records in the Supreme Court and Court of Appeals is permanent.

186
187 (B)(8) **Special cases.**

188
189 (B)(8)(a) The retention period for foreign judgments, abstracts of judgment and
190 transcripts of judgment is the same as for a case of the same type filed originally in Utah.

191
192 (B)(8)(b) The retention period for contempt of court is the same as for the underlying
193 case in which the contempt occurred.

194
195 (B)(8)(c) The retention period in the juvenile court for records of the prosecution of adults
196 is the same as for the corresponding offense in district or justice court.

197
198 (B)(9) **Case related records.** If the record is filed with the case file, it is treated as a non-critical
199 document unless it is specifically included within the definition of a critical document. If the
200 record is not filed with the case file then its retention period is determined in accordance with the
201 following schedule:

202
203 (B)(9)(a) **Audio and video tapes and tape logs; court reporter notes.** For
204 misdemeanors, infractions and small claims, 3 years from the date the record is created.
205 Otherwise, 9 years from the date the record is created. Tapes shall not be reused.

206
207 (B)(9)(b) **Court calendars.** As determined by the clerk of the court based on local
208 needs.

209
210 (B)(9)(c) **Confidential records.** Confidential records are retained for the same period as
211 the case to which they apply, but they are filed and stored in such a manner as to protect
212 their confidentiality.

213
214 (B)(9)(d) **Depositions.** 6 months after the close of appellate proceedings.

215
216 (B)(9)(e) **Exhibits.** Three months after disposition of the exhibit in accordance with Code
217 of Judicial Administration 4-206.

218
219 (B)(9)(f) **Expunged records.** For the same time as though the record had not been
220 expunged.

- 221
- 222 (B)(9)(g) **Indexes.** Permanent.
- 223
- 224 (B)(9)(h) **Jury lists and juror qualification questionnaires.** 4 years from completion of
- 225 term of availability.
- 226
- 227 (B)(9)(i) **Case history.** Permanent.
- 228
- 229 (B)(10) **Record destruction.** Court records 50 years of age or older shall be reviewed for
- 230 historical significance by the Division of State Archives prior to destruction. If a record is of
- 231 historical significance, the Division will take possession. If a record is not of historical
- 232 significance, the court shall manage the record in accordance with this schedule.
- 233
- 234 Paper documents shall be destroyed after expiration of the retention period or after copying the
- 235 document to microfilm, digital image, or electronic medium. If documents are copied to
- 236 microfilm, digital image, or electronic medium, the court may maintain the paper documents until
- 237 such later time that convenient access to the case file can be achieved by means of microfilm or
- 238 digital image. Each court is responsible for destroying records or making arrangements for
- 239 destroying records. The court must comply with all laws applicable to the method of destruction.
- 240 Confidential records must be shredded prior to destruction. Recycling is the preferred method of
- 241 destruction. In addition, the court may destroy records by incineration or deposit in a landfill. If
- 242 the court is unable to destroy records by these means, the court may arrange through the state
- 243 court records officer to have records destroyed by the State Records Center, which may charge
- 244 a fee.
- 245
- 246 **(C) Administrative Records.**
- 247
- 248 (C)(1) **Record storage, microfilming, imaging and destruction.** Administrative records shall
- 249 be stored on-site. Administrative records may be microfilmed or scanned to a digital image
- 250 based on local needs and resources.
- 251
- 252 (C)(2) **Retention period.** The retention period for administrative records is in accordance with
- 253 the following schedule.
- 254
- 255 (C)(2)(a) **Accounting, audit, budget, and finance records.** 4 years from the date the
- 256 record is created.
- 257
- 258 (C)(2)(b) **Final reports approved by the Judicial Council.** Permanent.
- 259
- 260 (C)(2)(c) **General counsel legal files.** 10 years from date the record is created.
- 261
- 262 (C)(2)(d) **Juror fee and witness fee payment records.** 4 years from date of payment.
- 263
- 264 (C)(2)(e) **Meeting minutes.** Permanent.

265

266 (C)(3) **Other Record Retention.** All administrative records not specifically listed in this record
267 retention schedule will be retained, transferred or destroyed according to the appropriate court
268 policy and procedure manual or the “Utah State Agency General Retention Schedule.”

269

270 **(D) Email retention.**

271

272 (D)(1) **Incidental Personal Correspondence.** Correspondence that does not relate to the
273 business of the courts. The sender and recipient should delete the email as soon as s/he has no
274 more need for it.

275

276 (D)(2) **Transitory Correspondence.** Court-related correspondence that is transitory in nature
277 and does not offer unique information about court functions or programs. These records include
278 acknowledgment files and most day-to-day office and housekeeping correspondence. The
279 sender and recipient should delete the email as soon as s/he has no more need for it.

280

281 (D)(3) **Policy and Program Correspondence.** Court-related correspondence that provides
282 unique information about court functions, policies, procedures, or programs. These records
283 document material discussions and decisions made regarding all court interests. The recipient
284 should delete the email as soon as s/he has no more need for it. The sender must retain policy
285 and program email for the same duration as the Utah State Archives Record Retention
286 Schedule for a record of that type.

287

288 (D)(4) **Reproducible Medium.** The sender must retain policy and program correspondence in a
289 reproducible medium separate from transitory messages. The sender can do this by moving the
290 email message to an electronic folder in the email system with an appropriate retention period
291 or by copying the correspondence to another medium for retention, such as a web page, a
292 saved file, or a printed document. If the sender copies the email to another medium for
293 retention, s/he should delete the email.

294

295 **(D)(5) Email records of a terminated or transferred employee.**

296

297 (D)(5)(a) **Supervisor’s or designee’s responsibility.** If an employee is scheduled for
298 termination or transfer, the employee’s supervisor or designee will notify the Help Desk
299 of the IT Division using the form provided by the Division. Upon termination or transfer,
300 the supervisor or designee will review the employee’s email. The supervisor or designee
301 will retain policy and program correspondence of which the employee was the sender in
302 accordance with paragraph (D)(3).

303

304 (D)(5)(b) **IT Division’s responsibility.** If the employee is transferred, the IT Division will
305 maintain the employee’s email account at the new location. If the employee is
306 terminated, the IT Division will:

307

308 (D)(5)(b)(i) De-provision the user id and email account of the employee;

- 309
310 (D)(5)(b)(ii) Remove authority to sign on to the court's computing network;
311
312 (D)(5)(b)(iii) Remove authority to access the court's email account;
313
314 (D)(5)(b)(iv) Remove the employee from group email lists; and
315
316 (D)(5)(b)(v) Remove authority to access personal and network drives.
317

318 Upon receipt of notice of termination or transfer, the IT Division will retain the employee's
319 email in its original form for 180 days from the date of termination or transfer. After 180
320 days, the IT Division may back up the employee's email, delete the email account and
321 recover and reuse the disk space. The IT Division will retain the back-up off site for one
322 year from the date of deletion. If a terminated or transferred employee returns within 180
323 days after the date of termination, the IT Division will reactivate the employee's email
324 account.
325

326 (D)(6) **Litigation.** Upon notice of pending or potential litigation, the IT Division will retain the
327 employee's email in the current format until notice that the litigation is complete or is no longer
328 contemplated. At such time, the employee's email will be subject to this section (D).
329

330 *Effective: May 1, 2020*

1 **Rule 3-407. Accounting.**

2 **Intent:**

3 To establish uniform procedures for the processing, tracking, and reporting of accounts
4 receivable and trust accounts.

5 **Applicability:**

6 This rule applies to the judiciary.

7 **Statement of the Rule:**

8 **(1) Manual of procedures.**

9 | (1)(A) **Manual of Procedures.** The administrative office shall develop a manual of
10 procedures to govern accounts receivable, accounts payable, trust accounts, the audit
11 thereof, and the audit of administrative procedures generally. The procedures shall be in
12 conformity with generally accepted principles of budgeting and accounting and shall, at a
13 minimum, conform to the requirements of this Code and state law. Unless otherwise
14 directed by the Judicial Council, the manual of procedures and amendments to it shall
15 be approved by the majority vote of the state court administrator, the court
16 administrators for each court of record, and the finance manager.

17 | (1)(B) **Accounting Manual Review Committee.** There is established an accounting
18 manual review committee responsible for making and reviewing proposals for repealing
19 accounting policies and procedures and proposals for promulgating new and amended
20 accounting policies and procedures. The committee shall consist of the following
21 minimum membership:

22 (1)(B)(i) the director of the finance department, who shall serve as chair and shall
23 vote only in the event of a tie;

24 (1)(B)(ii) four support services coordinators who will serve a three year term, and
25 may repeat;

26 (1)(B)(iii) two accountants or clerks with accounting responsibilities from each of
27 the trial courts of record who will serve a three year term, and may repeat;

28 (1)(B)(iv) a trial court executive who will serve a three year term;

29 (1)(B)(v) a clerk of court who will serve a three year term;

30 (1)(B)(vi) a clerk with accounting responsibilities from an appellate court who will
31 serve a three year term, and may repeat;

32 (1)(B)(vii) one court services field specialist, who has an indefinite term;

33 (1)(B)(viii) the audit director or designee, who shall not vote; and

34 (1)(B)(ix) the director of the state division of finance or designee, who shall not
35 vote.

36 | (1)(C) **Member Appointments.** Unless designated by office, members of the committee
37 | shall be appointed by the state court administrator, or designee. The department of
38 | finance shall provide necessary support to the committee.

39 | (1)(D) **Court Executive Review.** New and amended policies and procedures
40 | recommended by the committee shall be reviewed by the court executives prior to being
41 | submitted to the Judicial Council or to the vote of the administrators and the finance
42 | manager. The Court Executives may endorse or amend the draft policies and
43 | procedures or return the draft policies and procedures to the committee for further
44 | consideration.

45 | **(2) Revenue accounts.**

46 | (2)(A) **Deposits; transfers; withdrawals.** All courts shall deposit with a depository
47 | determined qualified by the administrative office or make deposits directly with the Utah
48 | State Treasurer or the treasurer of the appropriate local government entity. The
49 | Supreme Court, Court of Appeals, State Law Library, administrative office, district court
50 | primary locations and juvenile courts shall deposit daily, whenever practicable, but not
51 | less than once every three days. The deposit shall consist of all court collections of state
52 | money. District court contract sites and justice courts having funds due to the state or
53 | any political subdivision of the state shall, on or before the 10th day of each month,
54 | deposit all funds receipted by them in the preceding month in a qualified depository with
55 | the appropriate public treasurer. The courts shall make no withdrawals from depository
56 | accounts.

57 | (2)(B) **Periodic revenue report.** Under the supervision of the court executive, the clerk
58 | of the court shall prepare and submit a revenue report that identifies the amount and
59 | source of the funds received during the reporting period and the state or local
60 | government entity entitled to the funds. Juvenile courts and primary locations of the
61 | district courts shall submit the report weekly to the administrative office. District court
62 | contract sites shall submit the report at least monthly, together with a check for the state
63 | portion of revenue, to the administrative office. Justice courts shall submit the report
64 | monthly, together with a check for the state revenue collected, to the Utah State
65 | Treasurer.

66 | (2)(C) **Monthly reconciliation of bank statement.** The administrative office shall
67 | reconcile the revenue account upon receipt of the weekly revenue report from the courts
68 | and the monthly bank statements.

69 | **(3) Trust accounts.**

70 (3)(A) **Definition.** Trust accounts are accounts established by the courts for the benefit
71 of third parties. Examples of funds which are held in trust accounts include restitution,
72 ~~child support~~ attorney fees, and monetary bail amounts.

73 (3)(B) **Accounts required; duties of a fiduciary.** District court primary locations and
74 juvenile courts shall maintain a trust account in which to deposit monies held in trust for
75 the benefit of the trustor or some other beneficiary. Under supervision of the court
76 executive, the clerk of the court shall be the custodian of the account and shall have the
77 duties of a trustee as established by law. All other courts of record and not of record may
78 maintain a trust account in accordance with the provisions of this rule.

79 (3)(C) **Monthly reconciliation of bank statement.** Each court shall reconcile its ledgers
80 upon receipt of the monthly bank statement and submit the reconciliation to the
81 administrative office.

82 (3)(D) **Accounting to trustor.** The courts shall establish a method of accounting that will
83 trace the debits and credits attributable to each trustor.

84 (3)(E) **Monetary Bail forfeitures; other withdrawals.** Transfers from trust accounts to a
85 revenue account may be made upon an order of forfeiture of monetary bail or other
86 order of the court. Other withdrawals from trust accounts shall be made upon the order
87 of the court after a finding of entitlement.

88 (3)(F) **Interest bearing.** All trust accounts shall be interest bearing. The disposition of
89 interest shall be governed by Rule 4-301.

90 **(4) Compliance.** The administrative office and the courts shall comply with state law and the
91 manual of procedures adopted by the administrative office.

92
93 | *Effective November 1, ~~2018~~2020*

1 **Rule 4-609. Procedure for obtaining fingerprints and Offense Tracking Numbers on**
2 **defendants who have not been booked in jail.**

3
4 **Intent:**

5 To establish a procedure for ensuring that fingerprints are obtained from, and an Offense
6 Tracking Number is assigned to, defendants who have not been booked into jail prior to their
7 first court appearance.

8
9 **Applicability:**

10 This rule shall apply to all prosecutors, law enforcement personnel, jail booking personnel, and
11 trial courts.

12
13 This rule shall only apply to offenses which are not included on the Utah Bureau of Criminal
14 Identification's Non-Serious Offense list.

15
16 **Statement of the Rule:**

17 (1) The prosecutor shall indicate, on the face of the Information that is filed with the court,
18 whether the defendant is appearing pursuant to a summons or a warrant of arrest, by inserting
19 "Summons" or "Warrant" beneath the case number in the caption.

20
21 (2) The prosecutor shall cause the criminal summons form to include the following information:

22 (A) the specific name of the court;

23 (B) the judge's name;

24 (C) the charges against the defendant;

25 (D) the date the summons is issued;

26 (E) a directive to the defendant to appear at the jail or other designated place for booking
27 and release prior to appearing at court;

28 (F) the address of the jail or other designated place; and

29 (G) a space for booking personnel to note the date and time of booking and the Offense
30 Tracking Number (formerly known as the CDR Number).

31
32 (3) Booking personnel shall:

33 (A) complete the booking process, including fingerprinting and issuing an Offense
34 Tracking Number;

35 (B) record the date and time of booking and the Offense Tracking Number on the
36 summons form;

37 (C) return the summons form to the defendant;

38 (D) instruct the defendant to take the summons form with him/her to the court at the time
39 designated on the summons;

40 (E) release the defendant without bail on their own recognizance unless the defendant
41 has outstanding warrants; and

42 (F) send the Offense Tracking Number to the prosecutor.
43

44 (4) Upon receipt of the Offense Tracking Number from booking personnel, the prosecutor shall
45 forward the number immediately to the court.

46

47 (5) If the defendant appears at court and does not have the summons form with the date and
48 time of booking and the Offense Tracking Number, court personnel shall instruct the defendant
49 to go immediately, at the conclusion of the appearance, to the jail or other designated place for
50 booking and release.

51

52 *Effective May __, 2020*

1 **Rule 10-1-404. Attendance and assistance of prosecutors in criminal proceedings.**

2

3 **Intent:**

4 To establish the responsibility of the prosecutor's office to attend criminal proceedings and to
5 assist the court in the management of criminal cases.

6

7 **Applicability:**

8 This rule shall apply to the Fourth District Court.

9

10 **Statement of the Rule:**

11 (1) The prosecutor's office shall assist the court with criminal cases by attending the following
12 court proceedings:

13 (A) felony first appearance hearings;

14 (B) arraignments on informations;

15 (C) sentencings.

16

17 (2) The prosecutor in attendance shall be prepared to provide the court with information relevant
18 | to setting monetary bail and sentencing, including criminal history, and the factual basis for the
19 offense charged.

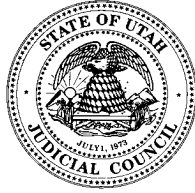
20

21 (3) Unless specifically requested by the court, the prosecutor is not required to attend
22 arraignments or sentencings for misdemeanants prosecuted on citations.

23

24 *Effective: May __, 2020*

Tab 11



Administrative Office of the Courts

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

May 12, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Policy and Planning Committee

RE: CJA 4-202.02. Records Classification

At the request of the Utah Legal Services Housing Task Force (ULS), the Resources for Self-Represented Parties Committee met with Policy and Planning on May 1st, 2020 and proposed amendments to Rule 4-202.02 sealing unlawful detainer actions when:

1. the plaintiff failed to serve the defendant within 120 days of filing;
2. the plaintiff failed to prosecute the action and no order of restitution has been entered or issued;
3. the plaintiff failed to seek a default judgment within 60 days after such a judgment could have been entered; or
4. the plaintiff requested dismissal, whether or not any judgment or order was entered.

The purpose behind the proposal is to prevent the unlawful denial of housing to vulnerable populations, especially in the current climate where housing is so desperately needed and in high demand. The attached letter to the Chief Justice from Marty Blaustein, Chair of the Utah Legal Services Housing Task Force, provides more detail and context.

While Policy and Planning is sensitive to the issue, the Committee identified several concerns:

- Sealing the record creates the false impression that the tenant was compliant with the lease. After the landlord filed suit, the tenant may have conceded that they couldn't pay and left the property. The landlord may not have pursued the action further because their goal had been achieved.
- One unintended consequence might be that landlords who otherwise would have been willing to let the case sit without action when the tenant agreed to move out, will now be incentivized to move the case to judgement. Tenants already struggling with economic stability will now be shouldered with a judgement of unpaid rent, treble damages, and all that comes with it.

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

- While the court is authorized under the statute to create its own records access rules, the legislature may see this as policy-making (similar to expungements).

The Policy and Planning Committee is seeking feedback and guidance from the Judicial Council about the underlying policy question and how best to proceed with the proposed amendments to CJA 4-202.02.

Encl. Letter from Martin Blaustein, Chair, ULS Housing Task Force, to Chief Justice Durrant

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

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) **Presumption of Public Court Records.** Court records are public unless otherwise
8 classified by this rule.

9 (2) **Public Court Records.** Public court records include but are not limited to:

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

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

13 (2)(C) appellate filings, including briefs;

14 (2)(D) arrest warrants, but a court may restrict access before service;

15 (2)(E) audit reports;

16 (2)(F) case files;

17 (2)(G) committee reports after release by the Judicial Council or the court that
18 requested the study;

19 (2)(H) contracts entered into by the judicial branch and records of compliance with the
20 terms of a contract;

21 (2)(I) drafts that were never finalized but were relied upon in carrying out an action or
22 policy;

23 (2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of
24 the exhibit, a fair trial or interests favoring closure;

25 (2)(K) financial records;

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

29 (2)(L)(i) amount in controversy;

30 (2)(L)(ii) attorney name;

31 (2)(L)(iii) licensed paralegal practitioner name;

32 (2)(L)(iv) case number;

33 (2)(L)(v) case status;

34 (2)(L)(vi) civil case type or criminal violation;

35 (2)(L)(vii) civil judgment or criminal disposition;

36 (2)(L)(viii) daily calendar;

- 37 (2)(L)(ix) file date;
- 38 (2)(L)(x) party name;
- 39 (2)(M) name, business address, business telephone number, and business email
40 address of an adult person or business entity other than a party or a victim or
41 witness of a crime;
- 42 (2)(N) name, address, telephone number, email address, date of birth, and last four
43 digits of the following: driver's license number; social security number; or account
44 number of a party;
- 45 (2)(O) name, business address, business telephone number, and business email
46 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 47 (2)(P) name, business address, business telephone number, and business email
48 address of court personnel other than judges;
- 49 (2)(Q) name, business address, and business telephone number of judges;
- 50 (2)(R) name, gender, gross salary and benefits, job title and description, number of
51 hours worked per pay period, dates of employment, and relevant qualifications of
52 a current or former court personnel;
- 53 (2)(S) unless classified by the judge as private or safeguarded to protect the personal
54 safety of the juror or the juror's family, the name of a juror empaneled to try a
55 case, but only 10 days after the jury is discharged;
- 56 (2)(T) opinions, including concurring and dissenting opinions, and orders entered in
57 open hearings;
- 58 (2)(U) order or decision classifying a record as not public;
- 59 (2)(V) private record if the subject of the record has given written permission to make
60 the record public;
- 61 (2)(W) probation progress/violation reports;
- 62 (2)(X) publications of the administrative office of the courts;
- 63 (2)(Y) record in which the judicial branch determines or states an opinion on the rights
64 of the state, a political subdivision, the public, or a person;
- 65 (2)(Z) record of the receipt or expenditure of public funds;
- 66 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 67 (2)(BB) record of formal discipline of current or former court personnel or of a person
68 regulated by the judicial branch if the disciplinary action has been completed, and
69 all time periods for administrative appeal have expired, and the disciplinary action
70 was sustained;
- 71 (2)(CC) record of a request for a record;
- 72 (2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial
73 Council designates the report as a public record;
- 74 (2)(EE) rules of the Supreme Court and Judicial Council;

- 75 (2)(FF) search warrants, the application and all affidavits or other recorded testimony on
76 which a warrant is based are public after they are unsealed under Utah Rule of
77 Criminal Procedure 40;
- 78 (2)(GG) statistical data derived from public and non-public records but that disclose only
79 public data; and
- 80 (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is
81 filed charging a person 14 years of age or older with a felony or an offense that
82 would be a felony if committed by an adult, the petition, indictment or information,
83 the adjudication order, the disposition order, and the delinquency history
84 summary of the person are public records. The delinquency history summary
85 shall contain the name of the person, a listing of the offenses for which the
86 person was adjudged to be within the jurisdiction of the juvenile court, and the
87 disposition of the court in each of those offenses.
- 88 (3) **Sealed Court Records.** The following court records are sealed:
- 89 (3)(A) records in the following actions:
- 90 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the
91 conclusion of proceedings, which are private until sealed;
- 92 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months
93 after the conclusion of proceedings, which are private until sealed;
- 94 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on
95 minors; and
- 96 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- 97 (3)(A)(v) Section 78B-6-Part 8 – Forcible Entry and Detainer: the record of
98 every case dismissed by the court along with any analogous duplicate
99 case due to transfer because
- 100 (3)(A)(v)(1) the plaintiff failed to serve the defendant within 120 days of
101 filing;
- 102 (3)(A)(v)(2) the plaintiff failed to prosecute the action and no order of
103 restitution has been entered or issued;
- 104 (3)(A)(v)(3) the plaintiff failed to seek a default judgment within 60 days
105 after such a judgment could have been entered; or
- 106 (3)(A)(v)(4) the plaintiff requested dismissal, whether or not any
107 judgment or order was entered;
- 108 (3)(B) expunged records;
- 109 (3)(C) orders authorizing installation of pen register or trap and trace device under
110 Utah Code Section 77-23a-15;
- 111 (3)(D) records showing the identity of a confidential informant;
- 112 (3)(E) records relating to the possession of a financial institution by the commissioner
113 of financial institutions under Utah Code Section 7-2-6;

- 114 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- 115 (3)(G) records designated as sealed by rule of the Supreme Court;
- 116 (3)(H) record of a Children's Justice Center investigative interview after the conclusion
- 117 of any legal proceedings; and
- 118 (3)(I) other records as ordered by the court under Rule 4-202.04.
- 119
- 120



UTAH LEGAL SERVICES⁰⁰⁰²⁶⁹



Committed to Equal Justice

205 NORTH 400 WEST, SALT LAKE CITY, UTAH 84103 * 801-328-8891 * FAX: 801-328-8898 * WWW.UTAHLEGALSERVICES.ORG

October 3, 2019

The Honorable Matthew B. Durrant, Chief Justice
Utah Supreme Court
450 South State Street
P.O. Box 140210
Salt Lake City, UT 84114-0210

RE: Sealing of certain eviction records

Dear Chief Justice Durrant:

As you know, Utah Legal Services provides civil legal help to low-income Utahns. Among other types of service, we assist tenants facing eviction. While the courts' involvement often terminates once a judgment is entered or the case is dismissed, the consequences to tenants do not end there. We seek your leadership to eliminate the ongoing stigma of eviction actions already dismissed by a district court either before any Order of Restitution or monetary judgment is entered or because the plaintiff has requested dismissal. Our preliminary tally of XChange data suggests this is about one-quarter of all eviction actions filed in Utah.

When someone applies to rent an apartment, most landlords do background checks. Background checking has become more prevalent since the advent of "good landlord" programs (GLL) around the State. GLLs typically reduce an owner's licensing fee in exchange for compliance with some rules. One of the principal enumerated reasons for GLLs is to reduce calls to law enforcement agencies responding to disturbances of the peace and other unlawful activity. GLLs send increasingly strident letters to landlords requiring compliance with the rules or loss of the reduced licensing fee. (In Salt Lake City, a GLL participant pays \$20 per rental unit per year. The standard fee for a non-participating landlord is \$342 per rental unit per year.)

Ogden
298 24th St., #110
84401
801-394-9431
Fax: 801-394-0430

Salt Lake City
205 N. 400 W.
84103
801-328-8891
Fax: 801-328-8898

Provo
455 N. University #100
84601
801-374-6766
Fax: 801-374-0960

St. George
229 E. St. George Blvd. #103
84770
435-628-1604
Fax: 435-628-1693



Toll Free (outside of Salt Lake County): 1-800-662-4245

Most GLLs only encourage but do not require background checks. But most landlords do so. Landlords perform those checks for various reasons. Determining a prospective tenant's viability is primary. Background checks include a search of public records for bankruptcies, outstanding judgment debts, credit scores. And records of eviction.

Especially in a tight rental market, landlords become proactive. They refuse to rent to households with dubious ability to pay the monthly rent or those who've been evicted in the past. Landlords often make this decision based solely upon the result of a background check. Many landlords just refuse to rent to an applicant with an EV in the civil record. These landlords do not delve into the specifics of each case. They do not discover that a prior landlord failed to serve the tenant within 120 days of filing the case. Or that the landlord failed to seek a default judgment within 60 days after it became available. Or that after an Answer was filed, the parties failed to respond to an Order to Show Cause why the case should not be dismissed for inactivity (failure to prosecute). Or the plaintiff requested dismissal.

During the week of June 1, 2018 through June 7, 2018 (inclusive), we count 78 EV actions filed statewide. Of those, 20 were dismissed by a district court judge prior to any order or judgment being entered for one of the reasons noted above. Moreover, four of these 78 cases are duplicates insofar as the court in which the original complaint was filed transferred these cases to another location in the same district. But in each such case, a new civil number was attached to the transferred case. Absent some intervention, this results in two EVs appearing in a defendant's civil records. One of the four transferred cases resulted in a dismissal for inactivity.

We have analyzed several weeks worth of EVs filed statewide and the conclusion is the same: about a quarter of all eviction actions were dismissed before any order or judgment had been entered. We believe that the civil record of eviction actions terminated pre-judgment should never affect a tenant's ability to find a home. Otherwise, the principle of innocence until guilt is proven stands on its head; an arrest record, irrespective of convictions, is damning. Past dismissed evictions thwart the defendant's search for housing just because they are part of the civil record.

As you might imagine, Utah Legal Services' housing advocates are asked to seal civil EV records with great frequency. But we lack the staff to assist everyone who seeks that help. For our low-income clients, having an unjustified eviction on the record is just another humiliation of poverty. We seek your governance to eliminate this blight.

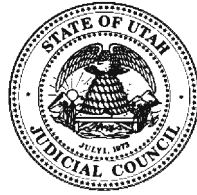
On behalf of the housing advocates at Utah Legal Services and Utah's renters, thank you for considering our request.

Sincerely,



Martin S. Blaustein
Attorney at Law
Chair, ULS Housing Task Force

Tab 12



Administrative Office of the Courts

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

May 6, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Management Committee

FROM: Chris Talbot, Court Facilities Director

RE: Court Facilities Planning Standing Committee - Approval of new committee member

The Standing Committee for Court Facilities Planning is seeking approval to backfill a vacant industry professional member position.

The current committee members are as follows:

1. Hon. David N. Mortensen, Chair - Court of Appeals
2. Hon. M. James Brady - Fourth District Court, Provo
3. Hon. Jeffrey Noland - Second District Juvenile, Ogden
4. Hon. Jon Carpenter - Carbon County Justice Court
5. Hon. Mary Noonan - Court Administrator
6. Mark Urry - Trial Court Executive, 4th District
7. Chris Palmer – AOC Security Director
8. Archie Phillips - Architect
9. ***Vacant - Industry Professional***

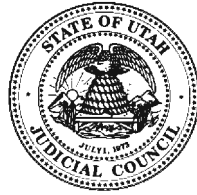
The Standing Committee received several recommendations from our partners at DFCM on their retired employees with prior planning experience in new capital development projects and capital improvement renovations. David McKay, a retired DFCM construction project manager, has expressed interest in becoming part of the committee.

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

David provided the following statement:

I am most interested in joining the Court Facilities Planning Committee. I retired from DFCM in September of 2017 with nearly 30 years as a State project manager. My experience involved construction projects with the Utah National Guard, Work Force Services, University of Utah, USU, UVCC and several other State agencies. I am also a licensed architect with about 14 years of private sector experience. I am comfortable with all the critical components of a successful new building project through all phases of programming, design, construction and occupancy. I also believe that I would be contributing member to the Committee because I consider myself a team player.

Judge Mortensen, Committee Chair, and I support David McKay as a candidate for the open industry professional vacancy. Thank you for consideration on this new appointment to the Court Facilities Planning Standing Committee.



Administrative Office of the Courts

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

May 4, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Management Committee

FROM: Chris Talbot, Court Facilities Director

RE: Court Facilities Planning Standing Committee - Reappointment of 3 existing Committee members to a second term

The Court Facilities Planning Standing Committee is seeking approval to reappoint 3 existing members to another 3 year term.

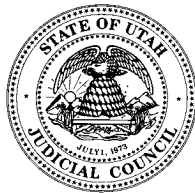
The current committee members are as follows:

1. Hon. David N. Mortensen, Chair - Court of Appeals (term expires June 2020)
2. Hon. M. James Brady - Fourth District Court, Provo (term expires June 2020)
3. Hon. Jeffrey Noland - Second District Juvenile, Ogden (term expires August 2020)
4. Hon. Jon Carpenter - Carbon County Justice Court
5. Hon. Mary Noonan - Court Administrator
6. Mark Urry - Trial Court Executive, 4th District
7. Archie Phillips – Retired industry professional
8. Chris Palmer – AOC Security Director

Judges Mortensen, Brady and Nolan were appointed in 2017 and have become valued members of the committee. Their attendance has been outstanding at quarterly meetings where they have provided valuable insight and guidance on all facilities planning issues brought to the committee. All 3 Judges have agreed to serve another term to 2023 if reappointed.

Judge Mortensen, Committee Chair, and I support the reappointment of all 3 judges. Thank you for your consideration on the reappointment of these valuable members of the Court Facilities Planning Standing Committee.

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efficient, and independent system for the advancement of justice under the law.**



Administrative Office of the Courts

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

May 8, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee – Utah Judicial Council

FROM: Standing Committee on Judicial Outreach

RE: Community Representative Nominee, Seeking Third Term for Chair, Proposed Member Rule Change

On behalf of the Standing Committee on Judicial Outreach and its Chair, Judge Elizabeth Hruby-Mills, we would like to nominate Melinda Bowen to fill the Community Representative position, made vacant by Jesse Soriano who, after many years on the committee, resigned when he moved out of state.

We believe Melinda will be a strong addition to the standing committee, and her work with the Utah Center for Legal Inclusion aligns with the standing committee in many key ways.

Attached is a copy of her CV. Below is her statement of interest:

Dear Members of the Judicial Council,

I would like to be considered for the vacant community representative position on the Standing Committee on Judicial Outreach. I feel I could bring a helpful perspective to the committee, along with a demonstrated passion for building relationships between legal professionals and other members of the public. My experience includes years of volunteering with various organizations whose work dovetails perfectly with the great projects pursued by this committee. Much of that experience is highlighted in my resume, which accompanies this statement. But, perhaps most significantly, I am currently the co-President of the Utah Center for Legal Inclusion, a nonprofit organization aimed at increasing diversity and inclusion in Utah's legal profession. UCLI's work is focused not only on helping legal employers with diversity and inclusion issues, but we also hope to increase access to the justice system, both by mentoring students to consider the law as a profession and by increasing attorney participation in community organizations. My work for UCLI, and in the other groups where I've had a role, has always been motivated by a desire to serve and to help people better understand the law as a

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

service profession. Through this experience, I've gained valuable insight into many of the existing efforts that are being pursued with similar goals in mind, and I would love to bring this insight to the committee. With this insight and my experience, I believe I could add value to the committee, and I very much appreciate your time in reviewing my materials. Please feel free to contact me if I can provide any additional, helpful information.

*Sincerely,
Melinda Bowen*

In addition, Third District Judge Elizabeth Hruby-Mills will finish out her second term on the standing committee in June. It is the sentiment of the standing committee that a continuity of leadership is needed during the unprecedented time of the COVID-19 pandemic. Below is her statement of interest in seeking out a third three-year term:

I would like to serve another term on the Standing Committee on Judicial Outreach as I think we are in a critical situation statewide which impacts this committee's mission. We have reenergized our committee and subcommittees with new members but I fear without the continuity of leadership, projects and ideas may falter. I enjoy and am invested in this committee and its future, and would like to ensure we continue to move forward, especially in light of the issues we are currently facing.

Lastly, the standing committee would like to propose a change to Rule 1-205 (1)(B)(vii) to better reflect the membership of the standing committee. Specifically, to make AOC General Counsel (or representative) and Utah State Law Librarian (or representative) permanent members to the standing committee. Over the years, these two positions have played critical roles. AOC General Counsel has guided public outreach decisions in making sure proper rules and ethical guidelines are followed. The State Law Librarian brings a much-needed perspective of front-line court patron service that informs needed public outreach.

We feel these two positions are unique enough to qualify as permanent members of the standing committee.

Current members of the Standing Committee on Judicial Outreach:
 Judge Elizabeth Hruby-Mills, District Court judge representative
 Judge Jill Pohlman, Court of Appeals, Appellate representative
 Judge Tupakk Renteria, Juvenile Court Judge representative
 Judge Bryan Memmott, Justice Court Judge representative
 Johnizan Bowers, Judicial Education representative
 Brent Johnson, State Level Administrator representative
 Krista Airam, TCE representative
 Nicholas M. Shellabarger, Utah Board of Education representative
 Michelle Oldroyd, Utah State Bar representative
 Michael Anderson, communication representative
 Community Representative - vacant
 Jessica Van Buren, Utah State Law Library representative
 Geoffrey Fattah, Director of Communication, staff liaison

Rule 3-114. Judicial Outreach
Standing Committee on Judicial Outreach

Intent of the committee:

- To foster a greater role for judges in service to the community.
- To provide leadership and resources for outreach.
- To improve public trust and confidence in the judiciary.

Sincerely,

Geoffrey Fattah
Communication Director
Administrative Office of the Courts

MELINDA K. BOWEN

6838 South Manorly Circle • Cottonwood Heights, Utah 84121 • (801) 231-7237 • mwayas@gmail.com

**PROFESSIONAL
EXPERIENCE****J. Reuben Clark Law School, Brigham Young University**

Visiting Assistant Professor (August 2017 – Present)

- Teach courses on criminal procedure and criminal law
- Research and write on criminal justice topics

Snow, Christensen & Martineau

Of Counsel (February 2017 – Present)

Associate (May 2010 – June 2014, September 2015 – December 2015)

Summer Associate (May 2008 – July 2008, May 2009 – August 2009)

- Represented clients in white-collar criminal cases and commercial litigation
- Drafted and argued motions in civil and criminal matters in state and federal courts
- Participated as lead associate in both jury and bench trials
- Wrote appellate briefs filed in Utah Court of Appeals and Tenth Circuit Court of Appeals

Honorable Carolyn McHugh, Tenth Circuit Court of Appeals

Judicial Law Clerk (December 2015 – December 2016)

- Prepared bench memoranda and drafts of opinions for civil and criminal appeals

Honorable Tena Campbell, United States District Court for the District of Utah

Judicial Law Clerk (September 2014 – August 2015)

- Prepared draft opinions and assisted judge with preparation for hearings and trials

Cooper & Kirk, PLLC

Extern (August 2009 – December 2009)

- Researched issues and drafted memoranda for petitions for writ of certiorari to the United States Supreme Court and for other federal litigation

Professor RonNell Andersen Jones, J. Reuben Clark Law School

Research Assistant (August 2009 – October 2009)

- Researched statutory interpretation issues to aid preparation for case argued before the United States Supreme Court

Professor Lisa Grow Sun, J. Reuben Clark Law School

Research Assistant (April 2009 – June 2009)

- Researched various issues related to disaster law for new edition of textbook

EDUCATION**J. Reuben Clark Law School, Brigham Young University**J.D., *summa cum laude* (April 2010)

- Ranked third of 154 students, Order of the Coif
- Lead Articles Editor, Brigham Young University Law Review
- Recipient, Abrelia Hinckley Scholarship
- Recipient, J. Reuben Clark Award
- President, Minority Law Student Association
- Founder and President, Pacific Islander Law Student Association

Brigham Young University

B.S., Teaching Social Science (June 2006)

- Academic Scholarship
- Multicultural Student Services Leadership Scholarship
- Dean's List

PUBLICATIONS AND PRESENTATIONS	<i>Contemporary Fifth Amendment Issues in Utah Courts</i> , presentation at Annual Judicial Conference (September 2019) <i>A Diversity and Inclusion Initiative: Why It's Needed and How to Get Involved</i> , panel presentation at Utah State Bar Fall Forum (November 2016) <i>Social Media and Cultural Bias Pitfalls</i> , Utah State Bar Tech Ethics CLE Series (June 2015) Op-Ed, <i>After 800 Years, Magna Carta Still a Work in Progress</i> , SALT LAKE TRIB., Apr. 25, 2015 <i>To Ask or Not to Ask?: Making the Most of Jury Questionnaires</i> , 8 DRI, THE WHISPER 7 (2012) <i>Autonomy: Justifying Efforts to Combat All Forms of Human Trafficking</i> , paper presentation at Annual Social Work Conference, Brigham Young University (October 2010)
ADMISSIONS	Utah State Bar (2010) United States Court of Appeals for the Tenth Circuit (2012) United States District Court for the District of Utah (2010)
COMMUNITY INVOLVEMENT	Volunteer Instructor, Utah Prison Education Project (beginning Spring 2020 semester) Fellow, American Bar Foundation (May 2019 – Present) Volunteer, CourtWatch Provo (May 2019 – Present) Member, Standing Committee for Model Utah Criminal Jury Instructions (January 2019 – Present) Commissioner, Utah Appellate Courts Nominating Commission (2017 – Present) President, Utah Center for Legal Inclusion (2016 – Present) Special Project Committee Member, Women Lawyers of Utah (2016 – 2017) Co-Chair, Utah State Bar 2017 Spring Convention (2016 – 2017) President, Utah Minority Bar Association (2013 – 2015, previously secretary and president-elect) Attorney Mentor, Women Lawyers of Utah (2010 – 2012) Alumni Mentor, J. Reuben Clark Law School (2010 – 2012)

Tab 13

Agenda

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Petitioner Respondent
 Petitioner's Attorney Respondent's Attorney (Utah Bar #: _____)
 Petitioner's Licensed Paralegal Practitioner
 Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Petitioner</p> <p>v.</p> <p>_____ Respondent</p>	<p>Motion and Declaration for Order to Show Cause (Domestic Cases) (Utah Rule of Civil Procedure 7)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	--

1. I ask the court to order the other party to explain why they should not be held in contempt for disobeying a previous order of this court. (Attach the order you want to enforce.)

Case Name

Case Number

Title of Order

Date Signed

Name of Signing Judge

Name of Court	State
Address of Court	Phone Number of Court

- 2. I ask for the relief described below and any other relief as may be determined by the court.
- 3. This motion is supported by the information provided below.
- 4. The following amounts have not been paid as required by the order I want to enforce. I ask the court to enter judgment for these amounts. (You must attach all documents supporting the amounts you are requesting.)

Past due alimony \$ _____
 (If you have a contingency fee agreement with an attorney to collect alimony, use paragraph 13.)
 from _____ to _____ (dates)

Past due child support \$ _____
 (If you have a contingency fee agreement with an attorney to collect alimony, use paragraph 13.)
 from _____ to _____ (dates)

Reimbursement of child care expenses \$ _____
 from _____ to _____ (dates)

Reimbursement of medical expenses \$ _____
 from _____ to _____ (dates)

Reimbursement of medical insurance premiums \$ _____
 from _____ to _____ (dates)

Reimbursement of the following debts I have paid: \$ _____
 (Describe the debts including the amounts and to whom they were paid. You must attach proof of payment.)

Other (Describe):

_____ \$ _____

5. The other party has not paid the following debts as required by the order I want to enforce. (Describe the debt, including the amount and to whom it is owed. Do not include any debts described in paragraph 4.)

I ask the court to order the party to pay the debts and order appropriate sanctions.

6. The other party has not delivered the following personal property as required by the order I want to enforce.

I ask the court order to the party to deliver the property to me and order appropriate sanctions.

7. The other party has not refinanced the following loan as required by the order I want to enforce: (Describe the loan, including the amount and to whom it is owed.)

I ask the court to order the party to refinance the loan and order appropriate sanctions.

8. The other party has not signed a quitclaim deed to the following premises as required by the order I want enforce:

I ask the court to order the party to sign a quitclaim deed and order appropriate sanctions.

- 9. The other party has not followed these parent-time provisions of the order I want to enforce: (Describe.)

I ask for additional or make-up parent-time: (Describe.)

- 10. The other party has not followed these custody provisions of the order I want to enforce: (Describe.)

I ask the court to order the party to follow the custody provisions of the order I want to enforce and order appropriate sanctions.

- 11. The other party has not done the following as required by the order I want to enforce: (Describe anything else the court has ordered the other party to do that has not been done.)

I ask the court to order the party to do this and order appropriate sanctions.

- 12. I have paid the following amount in fees to serve the motion and other costs, and I ask for reimbursement: \$_____.
(Attach receipts to prove the amount you paid. If you have a contingency fee agreement with an attorney to collect fees, use paragraph 13.)

- 13. I have a contingency fee arrangement with an attorney to collect the child support or alimony debt or both. I ask for judgment for:

- a. The principal amount due for past due alimony from _____ to _____ (dates) in the amount of \$_____ and applicable interest in the amount of \$_____.
- b. The principal amount for past due child support from _____ to _____ (dates) in the amount of \$_____, and applicable interest in the amount of \$_____.
- c. A collection fee of \$_____, as provided in the contingency fee agreement, which does not exceed the lesser of:
 - the actual amount the moving party is required to pay for collection costs, or
 - 40% of the principal amount owed to the moving party.
- d. Reasonable attorney fees, and
- e. Costs related to obtaining the judgment requiring the payment of the child support or alimony debt.

Petitioner or Respondent

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

 Signature ► _____

Date Printed Name _____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

 Signature ► _____

Date Printed Name _____

Certificate of Service

This certificate of service is required only if the other party is represented by an attorney, or if ORS or a Guardian ad Litem involved in the case. **The other party should be served by a sheriff, constable, or private investigator.**

I certify that I filed with the court and am serving a copy of this Motion and Declaration for Order to Show Cause on the following people.

Person's Name	Service Method	Service Address	Service Date
(Other party's attorney, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		
(Office of Recovery Services, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		
(Guardian ad Litem, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		

_____ Date Signature ► _____
Printed Name _____

Name

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Order to Show Cause
Orden de Mostrar Causa

Petitioner

v.

Respondent

Case Number

Judge

Commissioner

To:

Petitioner Name

Respondent Name

The court has scheduled a hearing on the Motion for Order to Show Cause as follows.

[Spanish for illustration only] debe mostrar causa de porque el/ella no debería ser detenido por desacato por el incumplimiento de la orden principal en este caso.

<p>You must appear to explain why you did not follow the court's order. You should bring with you all relevant evidence and witnesses. You may be represented by a lawyer.</p>	<p>debe mostrar causa de porque el/ella no debería ser detenido por desacato por el incumplimiento de la orden principal en este caso.</p>
<p>It is contempt of court to disobey a lawful court order. The court can punish you by ordering you to pay up to \$1000 in fines and serve up to 30 days in jail in addition to requiring you to follow the court's original order.</p>	<p>debe mostrar causa de porque el/ella no debería ser detenido por desacato por el incumplimiento de la orden principal en este caso.</p>

Courthouse Address (Dirección del tribunal):

Date (Fecha): _____ Time (Hora): _____ [] a.m. [] p.m.

Room (Sala): _____

Judge or Commissioner (Juez o Comisionado): _____

<p>Attendance You must attend. If you do not attend, you might be held in contempt of court and the relief requested might be granted. You have the right to be represented by a lawyer.</p>	<p>Asistencia Presentarse es obligatorio. Si usted no llegara a presentarse, se lo podría encontrar en desacato de las órdenes del juez y la reparación solicitada podría ser otorgada. Usted tiene el derecho de que lo represente un abogado.</p>
<p>Evidence Bring with you any evidence that you want the court to consider.</p>	<p>Pruebas Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.</p>
<p>Interpretation If you do not speak or understand English, the court will provide an interpreter. Contact court staff immediately to ask for an interpreter.</p>	<p>Interpretación Si usted no habla ni entiende el Inglés el tribunal le proveeré un intérprete. Contacte a un empleado del tribunal inmediatamente para pedir un intérprete.</p>
<p>ADA Accommodation If you need an accommodation, including an ASL interpreter, contact court staff immediately to ask for an</p>	<p>Adaptación o Arreglo en Caso de Discapacidad Si usted requiere una adaptación o arreglo, que incluye un intérprete de la lengua de</p>

<p>accommodation.</p> <p>Finding help The court’s Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.</p>	<p>signos americana, contacte a un empleado del tribunal inmediatamente para pedir una adaptación.</p> <p>Cómo encontrar ayuda legal La página de la internet del tribunal Cómo encontrar ayuda legal (www.utcourts.gov/howto/legalassist/index-sp.html/) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.</p>
--	---

Judge’s signature may instead appear at the top of the first page of this document.

_____ Signature ► _____
 Date Judge _____

Certificate of Service

This certificate of service is required only if the other party is represented by an attorney, or if ORS or a Guardian ad Litem is involved in the case. **The other party should be served by a sheriff or constable.**

I certify that I filed with the court and am serving a copy of this Order to Show Cause on the following people.

Person's Name	Service Method	Service Address	Service Date
(Other party's attorney, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		
(Office of Recovery Services, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		
(Guardian ad Litem, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		

_____ Signature ► _____
 Date _____ Printed Name _____

 Name

 Address

 City, State, Zip

 Phone

Check your email. You will receive information and documents at this email address.

 Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<hr/> Petitioner v. <hr/> Respondent	<p style="text-align: center;">Order on Order to Show Cause</p> <hr/> Case Number <hr/> Judge <hr/> Commissioner
--	---

The matter before the court is a Motion for Order to Show Cause for failure to obey an order of this court. This matter is being resolved by: (Choose all that apply.)

- The default of Petitioner Respondent.
 The stipulation of the parties.
 The pleadings and other papers of the parties.
 A hearing held on _____ (date), notice of which was served on all parties.

Petitioner

- was present was not present.
 was represented by _____ (name).
 was not represented.

Respondent

was present was not present.

was represented by _____ (name).

was not represented.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

The court finds:

1. The petitioner respondent:

did did not know of the court's order;

did did not have the ability to follow the order;

did did not willfully fail to comply with the order.

2. The moving party:

does not have a contingency fee arrangement with an attorney to collect the past child support, past alimony debt, or both.

does have a contingency fee arrangement with an attorney to collect the past child support, past alimony debt, or both.

3. Other findings:

The court orders:

4. The Motion for Order to Show Cause is granted denied.

5. The moving party does not have a contingency fee arrangement with an attorney to collect the past child support, past alimony debt, or both.
(If moving part have have a contingency fee arrangement do not complete this section. Instead, skip to Paragraph 6.)

Judgment is entered for the following amounts and

Petitioner Respondent is ordered to pay the following amounts:

Past due alimony \$ _____

from _____ to _____ (dates)

- Past due child support \$ _____
from _____ to _____ (dates)
- Reimbursement of child care expenses \$ _____
from _____ to _____ (dates)
- Reimbursement of medical expenses \$ _____
from _____ to _____ (dates)
- Reimbursement of medical insurance premiums \$ _____
from _____ to _____ (dates)
- Reimbursement of the following debts: \$ _____
(Describe the debts including the amount and to whom it is owed)

- Other (Describe): \$ _____

6. The moving party does have a contingency fee arrangement with an attorney to collect the child support, alimony, or both.

The Office of Recovery Services may not collect on the debts in this section of the order, with the exception of any arrears assigned to the State of Utah. This order shall not include arrears assigned to the State of Utah and does not preclude the rights of the Office of Recovery Services to collect those arrears. If you have a case open with the Office of Recovery Services, you must provide them with a copy of this order.

- Judgment is entered against petitioner respondent for \$ _____, which is a total of all the amounts below (Choose all that apply.):
 - a. The principal amount due for past due alimony from _____ to _____ (dates) in the amount of \$ _____ and applicable interest in the amount of \$ _____.
 - b. The principal amount for past due child support from _____ to _____ (dates) in the amount of \$ _____, and

applicable interest in the amount of \$_____.

c. A collection fee of \$_____, as provided in the contingency fee agreement, which does not exceed the lesser of:

[] the actual amount the moving party is required to pay for collection costs, or

[] 40% of the principal amount owed to the moving party.

d. Reasonable attorney fees [] in the amount of \$_____.

e. Costs related to obtaining the judgment requiring the payment of the child support or alimony debt.

[] in the amount of \$_____

The court further orders [] petitioner [] respondent

7. [] to pay the following debts: (Describe the debt, including the amount and to whom it is owed. Omit debts described under Paragraph (5).)

8. [] to deliver the following personal property:

9. [] to refinance the following loan:

10. [] to execute a quit claim deed to the following premises:

11. [] to provide make-up parent-time as follows:

12. [] to do the following concerning custody of the minor children:

13. to do the following: (Describe anything else the court orders the party to do.)

14. Contempt. (Choose (a) or (b).)

a. The question of whether petitioner respondent should be held in contempt for failing to follow the previous orders of the court
 is is not certified by the commissioner to the district court judge for further consideration.

b. Petitioner Respondent

is not in contempt.

knew of the court's order, had the ability to follow the order, and willfully refused to do so. The party therefore is in contempt for failing to follow the previous orders of the court and is ordered:

to pay a fine of \$_____.

to serve _____ days in jail.

to: (describe)

can avoid the contempt sentence by doing the following:
(describe)

15. The court further orders: (describe)

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

Date Signature ► _____
Commissioner _____

Date Signature ► _____
Judge _____

Approved as to form.

Date Signature ► _____
Petitioner, Attorney or Licensed Paralegal Practitioner _____

Date Signature ► _____
Respondent, Attorney or Licensed Paralegal Practitioner _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Order on Motion for Order to Show Cause on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
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_____ Signature ► _____
 Date Printed Name _____

Name

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

I am Petitioner Respondent
 Petitioner's Attorney Respondent's Attorney (Utah Bar #: _____)
 Petitioner's Licensed Paralegal Practitioner
 Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Request for Contempt Hearing
(Use **only** if a commissioner has certified the issue of contempt to be heard by a judge.)

Petitioner

v.

Respondent

Case Number

Judge

Commissioner

The court commissioner has certified the issue of contempt to the district court judge for consideration, and I ask for a hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Request for Contempt Hearing on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ► _____

Date

Printed Name _____

Name

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

In the District Court of Utah

Fifth Judicial District _____ County

Court Address _____

<p>_____ Petitioner</p> <p>v.</p> <p>_____ Respondent</p>	<p>Order to Show Cause (Fifth District) Orden de Mostrar Causa</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	---

To:

Petitioner Name

Respondent Name

<p>Having reviewed the Motion for Order to Show Cause and the Supporting Statement, the court has scheduled a hearing at the following date and time:</p>	<p>Habiendo revisado la Moción para la Orden de Mostrar Causa y la declaración de respaldo, el tribunal ha programado una audiencia en la fecha y hora que sigue.</p>
---	---

Courthouse Address (Dirección del tribunal):

Date (Fecha): _____ Time (Hora): _____ [] a.m. [] p.m.

Room (Sala): _____

Judge or Commissioner (Juez o Comisionado): _____

<p>At which time [] petitioner [] respondent must show cause why they should not be held in contempt of court for failure to obey the controlling order in this case.</p>	<p>En cual momento el [] peticionario [] demandado debe mostrar causa de porque el/ella no debería ser detenido por desacato por el incumplimiento de la orden principal en este caso.</p>
<p>Purpose of Motion By filing this motion for an order to show cause, the moving party seeks to enforce the following order:</p>	<p>El Propósito de la Moción Al presentar esta moción de orden de mostrar causa, la parte actora intenta hacer cumplir la siguiente orden:</p>
<p>_____ (Order Name)</p>	<p>_____ (Nombre de la Orden)</p>
<p>_____ (Date Order was Signed)</p>	<p>_____ (Fecha en que fue Firmada la Orden)</p>
<p>The moving party is seeking the relief described in the attached motion and supporting statement.</p>	<p>La parte actora está buscando la reivindicación descrita en la moción y declaración de respaldo adjunta.</p>
<p>Purpose of Hearing No written response to the motion and order to show cause is required. This hearing is a first appearance, which is not an evidentiary hearing, but is for the purpose of determining:</p> <ul style="list-style-type: none"> • whether you contest the allegations made in the motion; • whether an evidentiary hearing is needed and on which issues; and • the estimated time needed for an 	<p>El Propósito de la Audiencia No se requiere respuesta por escrito a la moción y a la orden de mostrar causa. Esta audiencia es una comparecencia inicial, la cual no es una audiencia de pruebas, sino que es para determinar:</p> <ul style="list-style-type: none"> • si disputa usted las acusaciones hechas en la moción; • si una audiencia de pruebas es necesaria y en cuales cuestiones; y • el tiempo aproximado necesario para una

<p>evidentiary hearing.</p> <p>Contempt of Court The moving party [] has [] has not requested that the opposing party be held in contempt of this court. If the judge finds that you are in contempt of court, the sanctions may include, but are not limited to, a fine of up to \$1000 and confinement in jail for up to 30 days.</p>	<p>audiencia de pruebas.</p> <p>Desacato al Tribunal La parte actora [] ha [] no ha solicitado que la parte contraria sea declarada en desacato a este tribunal. Si el juez lo encuentra culpable de desacato al tribunal, las sanciones pueden incluir, pero no se limitan a, una multa de hasta \$1000 dólares y confinamiento en la cárcel de hasta 30 días.</p>
<p>Attendance You must attend. If you do not attend, you might be held in contempt of court and the relief requested might be granted. You have the right to be represented by a lawyer.</p> <p>Evidence Bring with you any evidence that you want the court to consider.</p> <p>Interpretation If you do not speak or understand English, the court will provide an interpreter. Contact court staff immediately to ask for an interpreter.</p> <p>ADA Accommodation If you need an accommodation, including an ASL interpreter, contact court staff immediately to ask for an accommodation.</p> <p>Finding help The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-</p>	<p>Asistencia Presentarse es obligatorio. Si usted no llegara a presentarse, se lo podría encontrar en desacato de las órdenes del juez y la reparación solicitada podría ser otorgada. Usted tiene el derecho de que lo represente un abogado.</p> <p>Pruebas Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.</p> <p>Interpretación Si usted no habla ni entiende el Inglés el tribunal le proveeré un intérprete. Contacte a un empleado del tribunal inmediatamente para pedir un intérprete.</p> <p>Adaptación o Arreglo en Caso de Discapacidad Si usted requiere una adaptación o arreglo, que incluye un intérprete de la lengua de signos americana, contacte a un empleado del tribunal inmediatamente para pedir una adaptación.</p> <p>Cómo encontrar ayuda legal La página de la internet del tribunal Cómo encontrar ayuda legal (www.utcourts.gov/howto/legalassist/index-sp.html/) tiene información sobre algunas</p>

Help Center, reduced-fee attorneys, limited legal help and free legal clinics.	maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.
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Judge's signature may instead appear at the top of the first page of this document.

_____ Signature ► _____
Date Judge _____

Certificate of Service

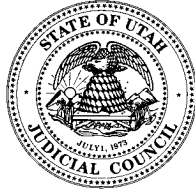
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(Office of Recovery Services, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		
(Guardian ad Litem, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.)		

_____ Date Signature ► _____
Printed Name _____

Tab 14



Administrative Office of the Courts

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

May 12, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

Agenda

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Keisa Williams

RE: Rules for Public Comment

Policy and Planning Committee recommends the following rules to the Judicial Council for public comment.

CJA 3-101. Judicial Performance Standards (AMEND)

CJA 3-104. Presiding Judges (AMEND)

CJA 3-111. Performance Evaluation of Senior Judges and Court Commissioners (AMEND)

The updates to Rules 3-101, 3-104, and 3-111 establish a definition for "submitted" for purposes of the case under advisement performance standard. The updates also provide discretion to the Council to excuse full compliance with the performance standards regarding cases under advisement and education hours for circumstances beyond the judge's control.

[Utah Code section 78A-2-223](#) has provided that a judge may be excused from full compliance with the case under advisement performance standard when "circumstances causing the delay are beyond the judge's personal control." Our rule has not caught up with the statute and judges have been unfairly penalized for non-compliance with performance standards when circumstances beyond their control have caused a delay in issuing a ruling.

A new tracking code, 'Request to Submit,' has been added to CORIS. The tracking code 'Request to Submit' will now be used instead of 'Under Advisement' when a Request to Submit is filed either manually or through eFiling. Request to Submit tracking will work the same way Under Advisement tracking has worked in the past.

When tracking for Request to Submit has ended, CORISWEB will ask if Under Advisement tracking should be set for 60 days. Users have the option to select 'Yes' or 'No.' If 'No' is selected, the Request to Submit tracking will end. If 'Yes' is selected, Under Advisement tracking will begin with a review date 60 days in the future. The default option is 'Yes.'

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

CJA 6-506. Procedure for Contested Matters Filed in the Probate Court (AMEND)

The proposed amendments change "may" to "will" in regard to scheduling a pre-mediation conference in paragraph (1)(c). According to the Probate Subcommittee, the change is necessary based on experience with the rule and the Third District Probate Calendar. Practitioners have been insisting on the pre-mediation conference even when it is not needed and using it to litigate other non-mediation issues. The increased conferences have created more burden than necessary for the court.

CJA 3-403. Judicial Branch Education (AMEND)**CJA 9-101. Board of Justice Court Judges (AMEND)****CJA 9-109. Presiding Judges (AMEND)**

Proposed changes to Rules 9-101 and 9-109 provide an alternative to conducting elections for leadership positions in the justice courts when the justice court conference is canceled. The proposed change to 3-403 authorizes the Board of Justice Court Judges to excuse judges from that conference (instead of the Management Committee).

CJA 4-106. Electronic Conferencing (REPEAL)

As the court has been scheduling and holding remote court proceedings, the Management Committee and the Supreme Court have been looking at all of the remote transmission rules. They exist in the rules of civil procedure, the rules of criminal procedure, the rules of juvenile procedure, and the rules of judicial administration. A consensus has been reached that Rule 4-106 should be repealed. Because remote hearing provisions exist in the rules of procedure, the Court is of the opinion that the topic is within their area of authority and not the Judicial Council's. The rules of civil procedure committee has been notified that Rule 4-106 will likely be repealed so that they can take any action they might deem appropriate in regard to the rules of civil procedure.

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

1 **Rule 3-101. Judicial performance standards.**

2 **Intent**

3 ~~To establish standards of performance for application by the Judicial Performance Evaluation~~
4 ~~Commission. To establish performance standards upon which the Judicial Council will certify judicial~~
5 ~~compliance to the Judicial Performance Evaluation Commission ("JPEC").~~

6 **Applicability**

7 This rule applies to all justices and judges of the courts of record and not of record.

8 **Statement of the Rule**

9 **(1) Certification of performance standards.**

10 (1)(A) The Judicial Council will certify to JPEC judicial compliance with the following performance
11 standards: cases under advisement, education, and physical and mental competence.

12 (1)(B) The Judicial Council will transmit its certification to JPEC by the deadline established in the
13 Utah Administrative Code.

14 ~~(2)~~ **Case under advisement standard.** A case is considered to be under advisement when the
15 entire case or any issue in the case has been submitted to the judge for final determination. For purposes
16 of this rule, "submitted to the judge" or "submission" is the last of the following:

17 (2)(A) When a matter requiring attention is placed by staff in the judge's personal electronic
18 queue, inbox, personal possession, or equivalent;

19 (2)(B) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held
20 on the specific motion or matter; or

21 (2)(C) If further briefing is required after a hearing or oral argument, when all permitted briefing is
22 completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's
23 personal electronic queue, inbox, personal possession, or equivalent.

24 **(3) Satisfactory Performance by a justice or judge.**

25 ~~(23)~~(A) **Supreme Court justice.** A justice of the Supreme Court demonstrates satisfactory
26 performance by circulating not more than an average of three principal opinions per calendar year
27 more than six months after submission with no more than half of the maximum exceptional cases in
28 any one calendar year.

29 ~~(23)~~(B) **Court of Appeals judge.** A judge of the Court of Appeals demonstrates satisfactory
30 performance by:

31 ~~(23)~~(B)(i) circulating not more than an average of three principal opinions per calendar year
32 more than six months after submission with no more than half of the maximum exceptional cases
33 in any one calendar year; and

34 ~~(23)~~(B)(ii) achieving a final average time to circulation of a principal opinion of not more than
35 120 days after submission.

36 ~~(23)~~(C) **Trial court judge.** A trial court judge demonstrates satisfactory performance by holding:

37 | ~~(23)~~(C)(i) not more than an average of three cases per calendar year under advisement more
38 | than two months after submission with no more than half of the maximum exceptional cases in
39 | any one calendar year; and

40 | ~~(23)~~(C)(ii) no case under advisement more than six months after submission.

41 | ~~(3)(C)(iii) A case is no longer under advisement when the trial court judge makes a decision~~
42 | ~~on the issue that is under advisement or on the entire case.~~

43 | ~~(34)~~ **Education standard.** Satisfactory performance is established if the judge annually obtains 30
44 | hours of judicial education subject to the availability of in-state education programs.

45 | ~~(45)~~ **Physical and mental competence.** Satisfactory performance is established if the response of
46 | the judge demonstrates physical and mental competence to serve in office and if the Council finds the
47 | responsive information to be complete and correct. The Council may request a statement by an
48 | examining physician.

49 | ~~(6) Judicial Council discretion. The Judicial Council has discretion to find that a judge or justice is~~
50 | ~~otherwise compliant with judicial performance standards when the judge or justice has failed to comply~~
51 | ~~with paragraphs (2) or (3) for reasons beyond the judge's or justice's personal control, or for other good~~
52 | ~~cause as determined by the Judicial Council. The Judicial Council shall make a public record of its~~
53 | ~~findings.~~

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Rule 3-104. Presiding judges.

Intent:

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:

(1) Election and term of office.

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.

(2)(A) Court en banc.

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

40 (2)(A)(vi) Minutes of each meeting shall be taken and preserved.

41 (2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court
42 invitation only.

43 (2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment
44 of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

45 (2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if
46 any, are absent from the court, an acting presiding judge shall be appointed. The method of designating
47 an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily
48 be informed shall be notified of the judge acting as presiding judge.

49 **(3) Administrative responsibilities and authority of presiding judge.**

50 (3)(A)(i) Generally. The presiding judge is charged with the responsibility for the effective operation of
51 the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and
52 directives of the Council as they pertain to the administration of the courts, orders of the court en banc
53 and supplementary rules. The presiding judge has the authority to delegate the performance of non-
54 judicial duties to the court executive. When the presiding judge acts within the scope of these
55 responsibilities, the presiding judge is acting within the judge's judicial office.

56 (3)(A)(ii) Caseload. Unless the presiding judge determines it to be impractical, there is a presumption
57 that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient
58 time to devote to the management and administrative duties of the office. The extent of the caseload
59 reduction shall be determined by each district.

60 (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial Council to
61 review any administrative decision made by the presiding judge of that district.

62 **(3)(B) Coordination of judicial schedules.**

63 (3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and
64 be responsible for an orderly plan of judicial absences from court duties.

65 (3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding
66 judge consistent with Rule 3-103(4).

67 **(3)(C) Authority to appoint senior judges.**

68 (3)(C)(i) The presiding judge is authorized to use senior judge coverage for up to 14 judicial days if a
69 judicial position is vacant or if a judge is absent due to illness, accident, or disability. Before assigning a
70 senior judge, the presiding judge will consider the priorities for requesting judicial assistance established
71 in Rule 3-108. The presiding judge may not assign a senior judge beyond the limits established in Rule
72 11-201(6).

73 (3)(C)(ii) The presiding judge will notify the State Court Administrator when a senior judge assignment
74 has been made.

75 (3)(C)(iii) If more than 14 judicial days of coverage will be required, the presiding judge will promptly
76 present to the State Court Administrator a plan for meeting the needs of the court for the anticipated
77 duration of the vacancy or absence and a budget to implement that plan. The plan should describe the

78 calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget
79 should estimate the funds needed for travel by judges and for time and travel by senior judges.

80 (3)(C)(iv) If any part of the proposed plan is contested by the State Court Administrator, the plan will
81 be reviewed by the Management Committee of the Judicial Council for final determination.

82 (3)(D) **Court committees.** The presiding judge shall, where appropriate, make use of court
83 committees composed of other judges and court personnel to investigate problem areas, handle court
84 business and report to the presiding judge and/or the court en banc.

85 (3)(E) **Outside agencies and the media.**

86 (3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such
87 as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association
88 leaders, probation and parole officers, county governmental officials, civic organizations and other state
89 agencies. The presiding judge shall be the primary representative of the court.

90 (3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive
91 shall represent the court and make statements to the media on matters pertaining to the total court and
92 provide general information about the court and the law, and about court procedures, practices and
93 rulings where ethics permit.

94 (3)(F) **Docket management and case and judge assignments.**

95 (3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement
96 improved methods and systems of managing dockets.

97 (3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court
98 rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

99 (3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The
100 presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other
101 appropriate resources when needed to handle the workload of the court.

102 (3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary
103 assistance to expedite the disposition of cases.

104 (3)(G) **Court executives.**

105 (3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by
106 the State Court Administrator and must concur in the appointment before it will be effective. The
107 presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring
108 in the appointment of a court executive.

109 (3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall
110 jointly develop an annual performance plan for the court executive.

111 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the
112 preparation of an evaluation of the court executive's performance for the previous year, also taking into
113 account input from all judges in the district.

114 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive,
115 including coordination of annual leave.

116 (3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court
117 executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the
118 non-judicial administration of the court. The presiding judge, in consultation with the judges of the
119 jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the
120 general administration of the court including budget, facility planning, long-range planning, administrative
121 projects, intergovernmental relations and other administrative responsibilities as determined by the
122 presiding judge and the state level administrator.

123 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of courtrooms and
124 facilities.

125 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in consultation with the
126 presiding judge, shall:

127 (3)(I)(i) coordinate the compilation of management and statistical information necessary for the
128 administration of the court;

129 (3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of
130 these policies;

131 (3)(I)(iii) approve proposals for automation within the court in compliance with administrative rules.

132 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall oversee the
133 development of the budget for the court. In contract sites, the court executive shall supervise the
134 preparation and management of the county budget for the court on an annual basis and in accordance
135 with the Utah Code.

136 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court fails to comply
137 with a reasonable administrative directive of the presiding judge, interferes with the effective operation of
138 the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial
139 Conduct, the presiding judge may:

140 (3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the
141 position taken and consult with the judge or commissioner.

142 (3)(K)(ii) Discuss the position with other judges and reevaluate the position.

143 (3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

144 (3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy,
145 education or treatment.

146 (3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different
147 case assignment.

148 (3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

149 (3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the
150 problem and where the refusal or conduct is willful, continual, and the presiding judge believes the
151 conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem
152 to the Council or the Judicial Conduct Commission.

153 (3)(L) **Cases under advisement.**

154 (3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case
155 has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge"
156 is defined as follows:

157 (3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic
158 queue, inbox, personal possession, or equivalent;

159 (3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument
160 held on the specific motion or matter; or

161 (3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted
162 briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the
163 judge's personal electronic queue, inbox, personal possession, or equivalent.

164 A case is no longer under advisement when the judge makes a decision on the issue that is under
165 advisement or on the entire case.

166 The final determination occurs when the judge resolves the pending issue by announcing the decision
167 on the record or by issuing a written decision, regardless of whether the parties are required to
168 subsequently submit for the judge's signature a final order memorializing the decision.

169 (3)(L)(ii) Once a month each judge shall submit a statement on a form to be provided by the State
170 Court Administrator notifying the presiding judge of any cases or issues held under advisement for more
171 than two months and the reason why the case or issue continues to be held under advisement.

172 (3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under
173 advisement for more than two months to the appropriate state level administrator and indicate the
174 reasons why the case or issue continues to be held under advisement.

175 (3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level
176 administrator shall report that fact to the Council.

177 (3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the
178 Board for the respective court level.

179 (3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for
180 the development of a performance plan for the Court Commissioner serving in that court and shall
181 prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance
182 plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

183 (3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice
184 court administrator to develop a rotation of magistrates that ensures regular availability of magistrates
185 within the district. The rotation shall take into account each magistrate's caseload, location, and
186 willingness to serve.

1 **Rule 3-111. Performance evaluation of active senior judges and court commissioners.**

2 **Intent:**

3 To establish a performance evaluation, including the criteria upon which active senior judges and court
4 commissioners will be evaluated, the standards against which performance will be measured and the
5 methods for fairly, accurately and reliably measuring performance.

6 To generate and to provide to active senior judges and court commissioners information about their
7 performance.

8 To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court
9 commissioners for reappointment.

10 **Applicability:**

11 This rule shall apply to presiding judges, the Board of Justice Court Judges and the Judicial Council, and
12 to the active senior judges and court commissioners of the Court of Appeals, courts of record and courts
13 not of record.

14 **Statement of the Rule:**

15 **(1) Performance evaluations.**

16 **(1)(A) Court commissioners.**

17 (1)(A)(i) On forms provided by the administrative office, the presiding judge of a district or court
18 level a court commissioner serves shall complete an evaluation of the court commissioner's
19 performance by June 1 of each year. If a commissioner serves multiple districts or court levels, the
20 presiding judge of each district or court level shall complete an evaluation.

21 (1)(A)(ii) The presiding judge shall survey judges and court personnel seeking feedback for the
22 evaluation. During the evaluation period, the presiding judge shall review at least five of the
23 commissioner's active cases. The review shall include courtroom observation.

24 (1)(A)(iii) The presiding judge shall provide a copy of each commissioner evaluation to the
25 Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained
26 in the commissioner's personnel file in the administrative office.

27 (1)(B) **Active senior judges.** An active senior judge's performance shall be evaluated by attorneys
28 as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).

29 **(2) Evaluation and certification criteria.** Active senior judges and court commissioners shall be
30 evaluated and certified upon the following criteria:

31 (2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and
32 evidence;

33 (2)(B) attentiveness to factual and legal issues before the court;

34 (2)(C) adherence to precedent and ability to clearly explain departures from precedent;

35 (2)(D) grasp of the practical impact on the parties of the commissioner's or senior judge's rulings,
36 including the effect of delay and increased litigation expense;

- 37 (2)(E) ability to write clear judicial opinions;
- 38 (2)(F) ability to clearly explain the legal basis for judicial opinions;
- 39 (2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or
40 senior judge's court;
- 41 (2)(H) maintenance of decorum in the courtroom;
- 42 (2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and
43 confidence in the judicial system;
- 44 (2)(J) preparation for hearings or oral argument;
- 45 (2)(K) avoidance of impropriety or the appearance of impropriety;
- 46 (2)(L) display of fairness and impartiality toward all parties;
- 47 (2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court
48 procedures, and decisions;
- 49 (2)(N) management of workload;
- 50 (2)(O) willingness to share proportionally the workload within the court or district, or regularly
51 accepting assignments;
- 52 (2)(P) issuance of opinions and orders without unnecessary delay; and
- 53 (2)(Q) ability and willingness to use the court's case management systems in all cases.

54 **(3) Standards of performance.**

55 **(3)(A) Survey of attorneys.**

56 (3)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys
57 appearing before the active senior judge or court commissioner during the period for which the active
58 senior judge or court commissioner is being evaluated. The Council shall measure satisfactory
59 performance based on the results of the final survey conducted during a court commissioner's term of
60 office, subject to the discretion of a court commissioner serving an abbreviated initial term not to
61 participate in a second survey under Section (3)(A)(vi) of this rule.

62 (3)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

63 (3)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent,
64 More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge.
65 A favorable response is Excellent, More Than Adequate, or Adequate.

66 (3)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable
67 responses by the total number of all responses, excluding the "No Personal Knowledge"
68 responses. A satisfactory score for a question is achieved when the ratio of favorable responses
69 is 70% or greater.

70 (3)(A)(ii)(c) A court commissioner's performance is satisfactory if:

71 (3)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

72 (3)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses,
73 excluding "No Personal Knowledge" responses, is 70% or greater.

74 (3)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are
75 satisfactory.

76 (3)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential
77 respondents all lawyers who have appeared before the court commissioner during the period for
78 which the commissioner is being evaluated.

79 (3)(A)(iv) **Exclusion from survey respondents.**

80 (3)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be
81 a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under
82 discipline shall not be a respondent in the survey.

83 (3)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may
84 exclude an attorney from the list of respondents if the court commissioner believes the attorney
85 will not respond objectively to the survey.

86 (3)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all
87 attorneys appearing before the court commissioner, whichever is less. All attorneys who have
88 appeared before the active senior judge shall be sent a survey questionnaire as soon as possible
89 after the hearing.

90 (3)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey
91 approximately six months prior to the expiration of their term of office. Court commissioners shall be
92 the subject of a survey during the second year of each term of office. Newly appointed court
93 commissioners shall be the subject of a survey during the second year of their term of office and, at
94 their option, approximately six months prior to the expiration of their term of office.

95 (3)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the
96 subject's presiding judge, and the Judicial Council the number and percentage of respondents for
97 each of the possible responses on each survey question and all comments, retyped and edited as
98 necessary to redact the respondent's identity.

99 (3)(B) **Non-attorney surveys.**

100 (3)(B)(i) **Surveys of presiding judges and court staff regarding non-appellate senior judges.**
101 The Council shall measure performance of active senior judges by a survey of all presiding judges
102 and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which
103 the senior judge has been assigned. The presiding judge and trial court executive will gather
104 information for the survey from anonymous questionnaires completed by court staff on the calendars
105 to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned.
106 The Administrative Office of the Courts shall distribute survey forms with instructions to return
107 completed surveys to the Surveyor. The survey questions will be based on the non-legal ability
108 evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the
109 subject's presiding judge, and the Judicial Council the responses on each survey question. The

110 Judicial Council shall determine whether the qualitative assessment of the senior judge indicates
111 satisfactory performance.

112 (3)(B)(ii) **Surveys of Court of Appeals presiding judge and clerk of court.** The Council shall
113 measure performance of active appellate senior judges by a survey of the presiding judge and clerk
114 of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the
115 survey from anonymous questionnaires completed by the other judges on each panel to which the
116 appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior
117 judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions
118 to return completed surveys to the Surveyor. The survey questions will be based on the non-legal
119 ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the
120 subject's presiding judge, and the Judicial Council the responses on each survey question. The
121 Judicial Council shall determine whether the qualitative assessment of the senior judge indicates
122 satisfactory performance.

123 (3)(C) **Case under advisement standard.**

124 (3)(C)(i) A case is considered to be under advisement when the entire case or any issue in the case
125 has been submitted to the senior judge or court commissioner for final determination. For purposes of this
126 rule, "submitted to the senior judge or court commissioner" or "submission" is defined as follows:

127 (3)(C)(i)(a) When a matter requiring attention is placed by staff in the senior judge's or court
128 commissioner's personal electronic queue, inbox, personal possession, or equivalent;

129 (3)(C)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument
130 held on the specific motion or matter; or

131 (3)(C)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted
132 briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the
133 senior judge's or court commissioner's personal electronic queue, inbox, personal possession, or
134 equivalent.

135 A case is no longer under advisement when the senior judge or court commissioner makes a decision on
136 the issue that is under advisement or on the entire case.

137 (3)(C)(ii) The Council shall measure satisfactory performance by the self-declaration of the senior
138 judge or court commissioner or by reviewing the records of the court.

139 (3)(C)(iii) A senior judge or court commissioner in a trial court demonstrates satisfactory performance
140 by holding:

141 (3)(C)(iii)(a) no more than three cases per calendar year under advisement more than two
142 months after submission; and

143 (3)(C)(iii)(b) no case under advisement more than 180 days after submission.

144 (3)(C)(iiiiv) A senior judge in the court of appeals demonstrates satisfactory performance by:

145 (3)(C)(iiiiv)(a) circulating no more than an average of three principal opinions per calendar
146 year more than six months after submission with no more than half of the maximum exceptional
147 cases in any one calendar year; and

148 | (3)(C)(iii)(b) achieving a final average time to circulation of a principal opinion of no more
149 | than 120 days after submission.

150 | (3)(D) **Compliance with education standards.** Satisfactory performance is established if the senior
151 | judge or court commissioner annually complies with the judicial education standards of this Code, subject
152 | to the availability of in-state education programs. The Council shall measure satisfactory performance by
153 | the self-declaration of the senior judge or court commissioner or by reviewing the records of the state
154 | court administrator.

155 | (3)(E) **Substantial compliance with Code of Judicial Conduct.** Satisfactory performance is
156 | established if the response of the senior judge or court commissioner demonstrates substantial
157 | compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be
158 | complete and correct and if the Council's review of formal and informal sanctions lead the Council to
159 | conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. Under
160 | Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from
161 | reappointment.

162 | (3)(F) **Physical and mental competence.** Satisfactory performance is established if the response of
163 | the senior judge or court commissioner demonstrates physical and mental competence to serve in office
164 | and if the Council finds the responsive information to be complete and correct. The Council may request a
165 | statement by an examining physician.

166 | (3)(G) **Performance and corrective action plans for court commissioners.**

167 | (3)(G)(i) The presiding judge of the district a court commissioner serves shall prepare a
168 | performance plan for a new court commissioner within 30 days of the court commissioner's
169 | appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of
170 | each district and court level shall prepare a performance plan. The performance plan shall
171 | communicate the expectations set forth in paragraph (2) of this rule.

172 | (3)(G)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court
173 | commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge
174 | shall prepare a corrective action plan setting forth specific ways in which the court commissioner can
175 | improve in deficient areas.

176 | (4) **Judicial Council certification process**

177 | (4)(A) **July Council meeting.** At its meeting in July, the Council shall begin the process of
178 | determining whether the senior judges and court commissioners whose terms of office expire that year
179 | meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall
180 | assemble all evaluation information, including:

181 | (4)(A)(i) survey scores;

182 | (4)(A)(ii) judicial education records;

183 | (4)(A)(iii) self-declaration forms;

184 | (4)(A)(iv) records of formal and informal sanctions;

185 (4)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating
186 of Needs Improvement; and

187 (4)(A)(vi) any information requested by the Council.

188 (4)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the
189 records to the Council and to the senior judges and court commissioners being evaluated.

190 (4)(C) **July Council meeting closed session.** In a session closed in compliance with Rule 2-103,
191 the Council shall consider the evaluation information and make a preliminary finding of whether a senior
192 judge or court commissioner has met the performance standards.

193 (4)(D) **Certification presumptions.** If the Council finds the senior judge or court commissioner has
194 met the performance standards, it is presumed the Council will certify the senior judge or court
195 commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet
196 the performance standards, it is presumed the Council will not certify the senior judge or court
197 commissioner for reappointment. The Council may certify the senior judge or court commissioner or
198 withhold decision until after meeting with the senior judge or court commissioner.

199 (4)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a
200 showing ~~of good cause to the contrary~~that a senior judge's or court commissioner's failure to comply with
201 paragraphs (3)(C) and (3)(D) were beyond the senior judge's or court commissioner's personal control. A
202 presumption in favor of certification may be overcome by:

203 (4)(E)(i) reliable information showing non-compliance with a performance standard, except as
204 otherwise provided in paragraph (4)(E); or

205 (4)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of
206 substantial compliance with the Code of Judicial Conduct.

207 (4)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner
208 challenging a non-certification decision shall meet with the Council in August. At the request of the
209 Council the presiding judge shall report to the Council any meetings held with the senior judge or court
210 commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts
211 to complete those steps. Not later than 5 days after the July meeting, the Administrative Office of the
212 Courts shall deliver to the senior judge or court commissioner being evaluated notice of the Council's
213 action and any records not already delivered to the senior judge or court commissioner. The notice shall
214 contain an adequate description of the reasons the Council has withheld its decision and the date by
215 which the senior judge or court commissioner is to deliver written materials. The Administrative Office of
216 the Courts shall deliver copies of all materials to the Council and to the senior judge or court
217 commissioner prior to the August meeting.

218 (4)(G) **August Council meeting closed session.** At its August meeting in a session closed in
219 accordance with Rule 2-103, the Council shall provide to the senior judge or court commissioner
220 adequate time to present evidence and arguments in favor of certification. Any member of the Council
221 may present evidence and arguments of which the senior judge or court commissioner has had notice
222 opposed to certification. The burden is on the person arguing against the presumed certification. The
223 Council may determine the order of presentation.

224 (4)(H) **Final certification decision.** At its August meeting in open session, the Council shall approve
225 its final findings and certification regarding all senior judges and court commissioners whose terms of
226 office expire that year.

227 (4)(I) **Communication of certification decision.** The Judicial Council shall communicate its
228 certification decision to the senior judge or court commissioner. The Judicial Council shall communicate
229 its certification decision for senior judges to the Supreme Court and for court commissioners to the
230 presiding judge of the district the commissioner serves.

231

1 Rule 6-506. Procedure for contested matters filed in the probate court.**2 Intent:**

3 To establish procedures for contested matters filed in the probate court.

4 Applicability:

5 This rule applies to matters filed under Title 75, Utah Uniform Probate Code when an objection is made
6 orally or in writing upon the record (a “probate dispute”).

7 Statement of the Rule:

8 (1) **General Provisions.** When there is a probate dispute:

9 (1)(A) Rule 4-510.05 of the Utah Code of Judicial Administration and Rule 101 of the Utah Rules
10 of Court-Annexed Alternative Dispute Resolution apply.

11 (1)(B) Upon the filing of an objection with the court in accordance with Rule 26.4(c)(2) of the
12 Utah Rules of Civil Procedure, all probate disputes will be automatically referred by the
13 court to the Alternative Dispute Resolution (ADR) Program under Rule 4-510.05 of the
14 Utah Code of Judicial Administration, unless the court waives mediation.

15 (1)(C) After an objection has been filed, and unless the court has waived mediation, the court
16 will may schedule the matter for a pre-mediation conference for purposes of the following:

17 (1)(C)(i) determining whether there is good cause for the matter to not be referred to
18 mediation;

19 (1)(C)(ii) ensuring that a guardianship respondent has been provided counsel or that
20 the process provided in Utah Code section 75-5-303 has been followed;

21 (1)(C)(iii) determining all interested persons who should receive notice of mediation;

22 (1)(C)(iv) determining whether any interested person should be excused from
23 mediation;

24 (1)(C)(v) selecting the mediator or determining the process and time frame for
25 selecting the mediator, as provided in Code of Judicial Administration Rule 4-
26 510.05;

27 (1)(C)(vi) determining the issues for mediation;

28 (1)(C)(vii) setting deadlines;

29 (1)(C)(viii) modifying initial disclosures if necessary and addressing discovery;

30 (1)(C)(ix) determining how mediation costs will be paid; and

31 (1)(C)(x) entering a mediation order.

32 (1)(D) The court will send notification of the pre-mediation conference to petitioner, respondent,
33 and all interested persons identified in the petition at the hearing and any objection as of
34 the date of the notification. The notification will include a statement that

35 (1)(D)(i) the interested persons have a right to be present and participate in the
36 mediation, the interested persons have a right to consult with or be
37 represented by their own counsel, and the interests of the interested persons
38 cannot be negotiated unless the interested persons specifically waive that
39 right in writing; and

40 (1)(D)(ii) unless excused by the court, an interested person who fails to participate
41 after receiving notification of the mediation may be deemed to have waived
42 their right to object to the resolution of the issues being mediated.

43 (2) **Procedure**

44 (2)(A) **Objections.** A party who files a timely objection pursuant to Rule of Civil Procedure 26.4
45 is required to participate in the court-ordered mediation unless the court upon motion
46 excuses the party's participation.

47 (2)(B) **Involvement of Interested Persons.**

48 (2)(B)(i) Any notice required under this rule must be served in accordance with Rule
49 5 of the Utah Rules of Civil Procedure.

50 (2)(B)(ii) Once mediation is scheduled, the petitioner must serve notice of the following
51 to all interested persons:

52 (2)(B)(ii)(a) The time, date, and location of the scheduled mediation;

53 (2)(B)(ii)(b) The issues to be mediated as provided in the pre-mediation
54 scheduling conference order;

55 (2)(B)(ii)(c) A statement that the interested persons have a right to be
56 present and participate in the mediation, that the interested
57 persons have a right to consult with or be represented by
58 their own counsel, and that the interests of the interested
59 persons cannot be negotiated unless the interested persons
60 specifically waive that right in writing; and

61 (2)(B)(ii)(d) a statement that, unless excused by the court, an interested
62 person who fails to participate after being served notice of
63 the mediation may be deemed to have waived their right to
64 object to the resolution of the issues being mediated.

65 (2)(B)(iii) Additional issues may be resolved at mediation as agreed upon by the
66 mediating parties and the mediator.

67 (2)(B)(iv) Once the mediation has taken place, the petitioner must notify all interested
68 persons in writing of the mediation's outcome, including any proposed
69 settlement of additional issues.

70 (2)(B)(iv)(a) An excused person has the right to object to the settlement
71 of any additional issue under (2)(B)(iii) within 7 days of
72 receiving written notice of the settlement.

73 (2)(B)(iv)(b) Any objection to the settlement of additional issues must be
74 reduced to a writing, set forth the grounds for the objection
75 and any supporting authority, and be filed with the court and
76 mailed to the parties named in the petition and any
77 interested persons as provided in Utah Code § 75-1-201(24).

- 78 (2)(B)(iv)(c) Upon the filing of an objection to the settlement of additional
79 issues, the case will proceed pursuant to paragraphs (2)(C)
80 through (2)(I).
- 81 (2)(C) **Deadline for mediation completion.**
- 82 (2)(C)(i) Mediation must be completed within 60 days from the date of referral.
- 83 (2)(C)(ii) If the parties agree to a different date, the parties must file notice of the new
84 date with the court.
- 85 (2)(D) **Mediation Fees.**
- 86 (2)(D)(i) If the estate or trust has liquid assets, and the personal representative,
87 trustee, guardian, or conservator, as applicable, is a mediating party, the
88 estate or trust must pay the mediator's fees.
- 89 (2)(D)(ii) Otherwise, the disputing parties will share the cost of the mediation but may
90 later request reimbursement from the estate or trust if the estate or trust has
91 liquid assets.
- 92 (2)(D)(iii) A party may petition the court for a waiver of all or part of the mediation fees
93 if the party cannot afford mediator fees or for other good cause.
- 94 (2)(D)(iv) If the court grants a waiver of mediation fees, the party must contact the ADR
95 Director who will appoint a pro bono mediator.
- 96 (2)(E) **Initial disclosures.** Within 14 days after a written objection has been filed, the parties
97 must comply with the initial disclosure requirements of Rule 26.4 of the Rules of Civil
98 Procedure.
- 99 (2)(F) **Discovery once a probate dispute arises.** Except as provided in Rule 26.4 of the Rules
100 of Civil Procedure or as otherwise ordered by the court, once a probate dispute arises,
101 discovery will proceed pursuant to the Rules of Civil Procedure, including the other
102 provisions of [Rule 26](#).
- 103 (2)(G) **Completion of mediation.** Upon completion of mediation, the parties will notify the Court
104 of the mediation's resolution pursuant to [Rule 101](#) of the Utah Rules of Court-Annexed
105 Alternative Dispute Resolution.
- 106 (2)(H) **Written settlement agreement.** If mediation results in a written settlement agreement,
107 upon a motion from any party, the court may enter orders consistent with its terms. The
108 filing of an objection under paragraph (2)(B)(iv)(a) does not preclude the court from
109 entering orders consistent with the resolved issues.
- 110 (2)(I) **Remaining issues.** If issues remain to be resolved after the conclusion of mediation, the
111 parties must request a pretrial conference with the assigned judge to establish the
112 deadlines for any supplemental initial disclosures, fact discovery, expert disclosures,
113 expert discovery, and readiness for trial.

114
115 | Effective ~~January 4~~[November 1](#), 2020.
116

Draft: April 24, 2020

1 **Rule 3-403. Judicial branch education.**

2 **Intent:**

3 To establish the Judicial Branch Education Committee's responsibility to develop and evaluate a
4 comprehensive education program for all judges, commissioners and court staff.

5 To establish education standards for judges, commissioners and court staff, including provisions for
6 funding and accreditation for educational programs.

7 To ensure that education programs, including opportunities for job orientation, skill and knowledge
8 acquisition, and professional and personal development, are available to all members of the judicial
9 branch and that such programs utilize the principles of adult education and focus on participative learning.

10 To emphasize the importance of participation by all judicial branch employees in education and
11 training as an essential component in maintaining the quality of justice in the Utah courts.

12 **Applicability:**

13 This rule shall apply to all judges, commissioners and court staff, except seasonal employees and law
14 clerks.

15 **Statement of the Rule:**

16 (1) Organization.

17 (1)(A) Judicial branch education committee. The Judicial Branch Education Committee shall
18 submit to the Council for approval proposed policies, standards, guidelines, and procedures applicable to
19 all judicial branch education activities. It shall evaluate and monitor the quality of educational programs
20 and make changes where appropriate within the approved guidelines for funding, attendance, and
21 accreditation.

22 (1)(B) Responsibilities of members. Committee members shall propose policies and procedures
23 for developing, implementing, and evaluating orientation, continuing skill development, and career
24 enhancement education opportunities for all judicial branch employees; formulate an annual education
25 plan and calendar consistent with the judicial branch education budget; and serve as advocates for
26 judicial branch education, including educating the judiciary about the purpose and functions of the
27 Committee.

28 (1)(C) Committee meetings.

29 (1)(C)(i) The Committee shall meet twice a year. Additional meetings may be called as
30 necessary. A majority of voting members in attendance is required for official Committee action.

31 (1)(C)(ii) The chairperson may recommend to the Council that a Committee member be
32 replaced if that member is absent without excuse from two consecutive Committee meetings or fails
33 to meet the responsibilities of membership as outlined in paragraph (1)(B).

34 (2) Administration. Judicial Education Officer. The Judicial Education Officer, under the direction of
35 the Court Administrator, shall serve as staff to the Committee and be responsible for the administration of
36 the judicial education program consistent with this rule.

37 (3) Standards for judges and court commissioners.

38 (3)(A) Program requirements. All judges and court commissioners shall participate in the first
39 designated orientation program offered after the date the judge is administered the oath of office, unless
40 attendance is excused for good cause by the Management Committee. All judges, court commissioners,
41 active senior judges, and active senior justice court judges shall complete 30 hours of pre-approved
42 education annually, to be implemented on a schedule coordinated by the Committee. Judges of courts of
43 record and court commissioners may attend a combination of approved local, state, or national programs.
44 Active and inactive senior judges and retired judges may attend approved local or state programs and the
45 annual Utah Judicial Conference, but an inactive senior judge or retired judge must pay all expenses.

46 (3)(A)(i) Active senior judge. If an active senior judge applies to be reappointed and will have
47 completed at least 60 total education hours in the two years preceding the effective date of
48 reappointment, the Management Committee may, for good cause shown, excuse the judge from having
49 to complete the annual 30 hour education requirement.

50 (3)(A)(ii) Inactive senior judges and retired judges. If an inactive senior judge or a retired judge
51 applies to be an active senior judge, the judge shall demonstrate that:

52 (3)(A)(ii)(a) less than three years has passed since he or she last complied with the continuing
53 education requirements of an active senior judge;

54 (3)(A)(ii)(b) he or she has complied with the MCLE requirements of the Utah State Bar for at least
55 three years before the application;

56 (3)(A)(ii)(c) he or she has attended 30 hours of approved judicial education within one year before
57 the application; or

58 (3)(A)(ii)(d) he or she has attended the new judge orientation for judges of the courts of record
59 within one year before the application. (3)(B)(i) Program components. Education programs for judges and
60 court commissioners shall include: a mandatory new judge orientation program; a variety of programs
61 addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and
62 programs geared to professional and personal development, to meet the continuing needs of judges and
63 court commissioners over the long term.

64 (3)(B) Annual conferences. Justice court judges and active senior justice court judges shall attend
65 the annual justice court conference unless excused by the ~~Management Committee~~ Board of Justice
66 Court Judges for good cause. Because the annual judicial conference represents the only opportunity for
67 judges to meet and interact as a group and to elect their representatives, judges, active senior judges and
68 court commissioners of the courts of record are strongly encouraged to attend that conference.

69 (4) Standards for court staff.

70 (4)(A) State employees.

71 (4)(A)(i) Program requirements. All court staff employed by the state shall complete 20 hours
72 of approved coursework annually.

73 (4)(A)(ii) Program components. Education programs for court staff employed by the state
74 shall include: on-the-job orientation for new employees as well as semi-annual Orientation Academies;
75 skill development programs that teach technical and job-related competencies; and enhancement
76 programs that promote personal and professional growth within the organization.

77 (4)(B) Local government employees.

78 (4)(B)(i) Program requirements. All court staff employed by the justice courts shall complete
79 10 hours of approved coursework annually. All other court staff employed by local government shall
80 complete 20 hours of approved coursework annually.

81 (4)(B)(ii) Program components. Education programs for court staff employed by local
82 government shall include: annual training seminar; skill development programs that teach technical and
83 job-related competencies; and enhancement programs that promote personal and professional growth.

84 (5) Reporting.

85 (5)(A) Judges, commissioners and court staff governed by these standards shall report
86 participation in education programs on a form developed by the Committee.

87 (5)(B) For court staff, compliance with judicial branch education standards shall be a performance
88 criterion in the evaluation of all staff.

89 (5)(B)(i) Supervisory personnel are responsible to ensure that all staff have an opportunity to
90 participate in the required education. Failure of a supervisor to meet the minimum education standards or
91 to provide staff with the opportunity to meet minimum education standards will result in an unsatisfactory
92 performance evaluation in the education criterion.

93 (5)(B)(ii) Failure of staff to meet the minimum education requirements will result in an
94 unsatisfactory evaluation on the education criterion unless the employee provides documented reasons
95 that the employee's failure to meet the education standards is due to reasons beyond the employee's
96 control.

97 (6) Credit. Judicial education procedures shall include guidelines for determining which programs
98 qualify as approved education within the meaning of these standards.

99 (7) Funding.

100 (7)(A) Budget. In preparing its annual request for legislative appropriations, the Council shall
101 receive and consider recommendations from the Committee. The Committee's annual education plan
102 shall be based upon the Council's actual budget allocation for judicial education.

103 (7)(B) In-state education programs. Judicial branch funds allocated to in-state judicial education
104 shall first be used to support mandatory in-state orientation programs for all judicial branch employees
105 and then for other education priorities as established by the Committee with input from the Boards of
106 Judges and Administrative Office.

107 (7)(C) Out-of-state education programs. To provide for diverse educational development, to take
108 advantage of unique national opportunities, and to utilize education programs which cannot be offered in-
109 state, the annual education plan shall include out-of-state education opportunities. The Committee shall
110 approve national education providers and shall include in the education procedures, criteria to be applied
111 by the Administrative Office to out-of-state education requests. Criteria shall include relevance to the
112 attendee's current assignment and attendance at in-state programs. Disagreement with a decision to
113 deny an out-of-state education request may be reviewed by a quorum of the Committee at the applicant's
114 request.

115 (7)(D) Tuition, fees, and travel. The Committee shall develop policies and procedures for paying
116 tuition, fees, per diem, and travel for approved programs. State funds cannot be used to pay for
117 discretionary social activities, recreation, or spouse participation. The Committee may set financial limits
118 on reimbursement for attendance at elective programs, with the individual participant personally making
119 up the difference in cost when the cost exceeds program guidelines.

120

121 | Effective November 1, 20~~2016~~

Draft: April 24, 2020

1 **Rule 9-101. Board of Justice Court Judges.**

2 Intent:

3 To prescribe the membership, method of selection, term of office and basic procedures of the Board.

4 Applicability:

5 This rule shall apply to the Board of Justice Court Judges.

6 Statement of the Rule:

7 (1) There is hereby established a Board of Justice Court Judges comprised of the chair, six at-large
8 members, and the three Council representatives.

9 (2) Members of the Board shall be elected by the justice court judges in connection with the justice
10 court business meeting at the annual judicial conference. For all elections contemplated by this rule,
11 judges may vote in person or remotely. The Justice Court judges shall, by majority vote of those in
12 attendance at the annual spring training conference, elect the members of the Board.

13 (3) The chair and the at-large members shall serve staggered two year terms. The Council
14 representatives shall serve during the length of their term as Council representatives.

15 (4) The chair shall preside over all meetings of the Board and over the Justice Court judges' training
16 conferences. The chair may not simultaneously serve as a Council representative.

17 (5) Members of the Board shall elect a vice-chair and an education liaison. The vice-chair shall serve
18 as chair in the absence of the chair or upon request of the chair. Neither the vice-chair nor the education
19 liaison may simultaneously serve as a Council representative.

20 (6) There shall be an Executive Committee comprised of the chair, vice-chair and one of the Council
21 representatives designated by the chair. The Executive Committee may take necessary action on behalf
22 of the Board between Board meetings.

23 (7) If vacancies occur for any reason on the Board between elections, the Board shall elect a
24 replacement for the unexpired term of the vacancy.

25 (8) Should the chair resign or leave the Board for any reason, the vice-chair shall become chair for
26 the remainder of the term.

27 (9) Should the vice-chair of the Board resign or leave the Board for any reason, a new vice-chair shall
28 be elected by the Board from among its members to serve the unexpired term of the vice-chair.

29 (10) If a vacancy occurs for any reason among the representatives to the Council, the Board shall
30 designate an interim representative to serve until the next annual training conference, at which time a
31 representative shall be elected to fill the unexpired term.

32 (11) The Board shall meet at least quarterly to transact any and all business that is within its
33 jurisdiction. The Board shall rule by majority vote. All members, except the three Council representatives,
34 are voting members. Four voting members of the Board constitute a quorum. Board meetings shall be
35 conducted generally in accordance with Robert's Rules of Order.

36 (12) All business conducted by the Board shall be conducted in accordance with this Code.(13) The
37 Board shall be responsible for certifying new justice courts and recertifying existing justice courts to the
38 Judicial Council as outlined in Rule 9-108.

39 (13) The Board shall be responsible for certifying new justice courts and recertifying existing justice
40 courts to the Judicial Council as outlined in Rule 9-108.

Draft: April 24, 2020

1 **Rule 9-109. Presiding judges.**

2 **Intent:**

3 To establish the procedure for election, term of office, role, responsibilities, and authority of presiding
4 judges, associate presiding judges, and education directors for Justice Courts.

5 **Applicability:**

6 This rule shall apply to presiding judges, associate presiding judges, and education directors in the
7 Justice Courts.

8 **Statement of the Rule:**

9 **(1) Election and term of office.**

10 (1)(A) Presiding judge.

11 (1)(A)(i) A presiding judge in each judicial district shall be elected by a majority vote of the active
12 judges present at the district meetings held at the 2018 Justice Court Conference. Thereafter, regular
13 elections shall take place at the Justice Court annual cConference in odd years for odd-numbered
14 districts and in even years for even-numbered districts. If the Justice Court Conference is canceled,
15 presiding judges shall be elected at district meeting held no later than the last day of the Annual
16 Judicial Conference that same year. In the event that a majority vote cannot be obtained, the
17 presiding judge shall be determined by the Board of Justice Court Judges. Interim elections, if
18 necessary, shall take place as provided in this rule. A presiding judge shall be an active judge,
19 currently appointed to at least one court within the district. Senior judges are ineligible to hold or vote
20 for the office of presiding judge.

21 (1)(A)(ii) The presiding judge's term of office shall be from the time of his or her election or
22 appointment until he or she resigns or until the next regular election, whichever occurs first. A
23 presiding judge may serve successive terms.

24 (1)(B) Associate presiding judge.

25 (1)(B)(i) The active judges of a district may, at their discretion, elect one judge of the district to the
26 office of associate presiding judge. An associate presiding judge shall be elected in the same manner
27 and serve the same term as the presiding judge in paragraph (1)(A). An associate presiding judge
28 shall be an active judge, currently appointed to at least one court within the district. Senior judges are
29 ineligible to hold or vote for the office of associate presiding judge.

30 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the
31 responsibilities of the presiding judge. The associate presiding judge shall perform other duties
32 assigned by the presiding judge.

33 (1)(C) District education director.

34 (1)(C)(i) The active judges of a district may, at their discretion, elect one judge of the district to the
35 office of education director. An education director shall be elected in the same manner and serve the
36 same term as the presiding judge in paragraph (1)(A). Senior judges are ineligible to vote for the

37 office of district education director but may hold the office. If a district does not elect an education
38 director, the associate presiding judge, if there is one, shall serve as the education director. If the
39 district elects neither an education director nor an associate presiding judge, the presiding judge shall
40 serve as the education director.

41 (1)(C)(ii) The education director shall serve on the justice court education committee and shall
42 work with the Education Department of the Administrative Office in developing, planning and
43 presenting relevant judicial training at the district level.

44 (1)(D) Removal and Other Vacancies of Office.

45 (1)(D)(i) If the office of presiding judge becomes vacant, then the associate presiding judge shall
46 serve the rest of the presiding judge's term. If there is no associate presiding judge, the district
47 education director shall, if the education director is an active judge, serve the unexpired term.
48 Otherwise, the Chair of the Board of Justice Court Judges shall appoint a judge to serve until the next
49 district meeting.

50 (1)(D)(ii) A presiding judge may appoint, on an interim basis, an eligible judge of the district to fill
51 an unexpired term of associate presiding judge or education director until the next district meeting. At
52 the district meeting, the active judges present shall ratify the appointment by majority vote. If they do
53 not ratify the appointment, or if the presiding judge does not make an interim appointment,
54 nominations and an election shall then be held at that meeting to fill the unexpired term.

55 (1)(D)(iii) A presiding judge, associate presiding judge or education director may be removed from
56 that office by a two-thirds vote of the active justice court judges in the district. A successor presiding
57 judge shall, or an associate presiding judge or education director may, then be elected to fill the
58 unexpired term of the vacant office.

59 (1)(D)(iv) In extraordinary circumstances, to preserve confidence in the fair administration of
60 justice, the Presiding Officer of the Judicial Council may remove a judge from any office described in
61 this rule. Vacancies shall be filled as provided in this rule.

62 **(2) District meetings.**

63 (2)(A) Each district shall have regular meetings to discuss and decide district business, receive
64 training, or address issues and concerns specific to the district.

65 (2)(A)(i) The presiding judge shall call and preside over a meeting of other justice court judges in
66 the district at the annual Justice Court Conference.

67 (2)(A)(ii) Each district shall have at least one other meeting during the calendar year in which a
68 majority of active justice court judges is present, including the presiding judge or associate presiding
69 judge.

70 (2)(B) In addition to regular meetings, the presiding judge or a majority of the active judges may call
71 additional meetings as necessary.

72 (2)(C) An agenda shall be circulated among the judges in advance of any meeting with a known
73 method on how matters may be placed on the agenda.

74 (2)(D) Other than judges and the Justice Court Administrator, attendance at district meetings shall be
75 by invitation of the presiding judge only.

76 (2)(E) The issues on which judges vote shall be left to the sound discretion and judgment of each
77 district and the applicable sections of the Utah Constitution, statutes, and this Code.

78 **(3) Administrative responsibilities and authority of presiding judge.**

79 (3)(A) Generally. The presiding judge is charged with the responsibility for the effective operation of
80 the justice courts within a district. He or she is responsible for the implementation and enforcement of
81 statutes, rules, policies, and directives of the Judicial Council and the Board of Justice Court Judges as
82 they pertain to the administration of the courts. When the presiding judge acts within the scope of these
83 responsibilities, the presiding judge is acting within the judge's judicial office.

84 (3)(B) Coordination of required training.

85 (3)(B)(i) The presiding judge, associate presiding judge, or education director shall: (a) be
86 responsible to see that judges in his or her district are appropriately trained, (b) assist in planning
87 statewide trainings as part of the Education Committee, (c) plan district training to be held in
88 connection with the meetings required by section (2), (d) recommend mentors for new judges, and (e)
89 arrange for individual training, as needed.

90 (3)(B)(ii) Presiding judges are encouraged to observe the hearings of judges within the district to
91 assess training needs.

92 (3)(C) Court committees. The presiding judge shall, where appropriate, make use of committees
93 composed of other judges and court personnel to investigate problem areas and improve the
94 administration of justice.

95 (3)(D) Outside agencies and the media.

96 (3)(D)(i) The presiding judge shall be available to meet with the media, outside agencies, such as
97 prosecuting attorneys, city attorneys, county attorneys, public defenders or associations of defense
98 counsel, sheriffs, police chiefs, bar association leaders, probation providers, government officials of
99 cities or counties located within the district, civic organizations, and other state agencies.

100 (3)(D)(ii) The presiding judge shall be the primary judicial representative of the justice court
101 judges in the district.

102 (3)(D)(iii) Nothing in this rule shall replace or interfere with the statutory and administrative
103 responsibilities of an appointed judge to the appointing authority of a court.

104 (3)(E) Judicial officers. The presiding judge shall discuss significant concerns, problems or complaints
105 regarding the judges in his or her district with the Justice Court Administrator, who shall work together to
106 resolve the concern. In the event that another judge in the district fails to comply with a reasonable
107 administrative directive of the presiding judge, interferes with the effective operation of the court, abuses
108 his or her judicial position, exhibits signs of impairment, or violates the Code of Judicial Conduct, the
109 presiding judge may, depending on the severity of the issue and consistent with legal and ethical
110 obligations:

111 (3)(E)(i) Consult with appropriate staff at the Administrative Office of the Courts and/or discuss
112 the issue with other presiding judges;

113 (3)(E)(ii) Meet with the judge to explain the reasons for the directive given or the position taken,
114 consult with the judge about alternative solutions and reevaluate the directive or position, as
115 appropriate;

116 (3)(E)(iii) Present the problem to the Board of Justice Court Judges for input;

117 (3)(E)(iv) Require the judge to participate in appropriate counseling, therapy, education or
118 treatment; or

119 (3)(E)(v) Refer the problem to the Judicial Council, the Chief Justice, or the Judicial Conduct
120 Commission, as appropriate.

121 (3)(F) Liaison. The presiding judge or his or her designee shall serve as a liaison between the justice
122 courts of the district and (i) the Board of Justice Court Judges and (ii) the presiding judges of Juvenile
123 Court and District Court.

124 (3)(G) Reassignment.

125 (3)(G)(i) In the event that a motion to disqualify a judge or judges is filed and no appointed judge
126 of the court is available or empowered to hear the motion, the presiding judge shall consider the
127 motion and, if necessary, assign any judge duly appointed pursuant to Utah Code section 78A-7-208
128 to serve as a temporary justice court judge.

129 (3)(G)(ii) In the event that all of the appointed judges of a court recuse themselves from a matter,
130 the presiding judge shall assign any judge duly appointed pursuant to Utah Code section 78A-7-208
131 to serve as a temporary justice court judge.

132 (3)(H) Compliance with standards. The presiding judge shall monitor and ensure that judges are
133 complying with performance standards established by the Council or as otherwise required by law.

134 (3)(I) Performance evaluations. Pursuant to Utah Code 78A-12-203, the presiding judge shall receive
135 the midterm reports prepared by the Judicial Performance Evaluation Commission for the other justice
136 court judges in his or her district. The presiding judge shall consult with the evaluated judge and the
137 Justice Court Administrator to develop a plan for addressing the issues resulting in less than satisfactory
138 scores.

139

140 | Effective ~~June 25, 2018~~ September 1, 2020

1 ~~Rule 4-106. Remote conferencing.~~

2
3 ~~Intent:~~

4
5 ~~To authorize the use of conferencing from a different location in lieu of personal appearances in~~
6 ~~appropriate cases.~~

7
8 ~~To establish the minimum requirements for remote appearance from a different location.~~

9
10 ~~Applicability:~~

11
12 ~~This rule shall apply to all courts of record and not of record.~~

13
14 ~~Statement of the Rule:~~

15
16 ~~(1) If the requirements of paragraph (3) are satisfied, the judge may conduct the hearing~~
17 ~~remotely.~~

18
19 ~~(2) If the requirements of paragraph (3) are met, the court may, for good cause, permit a~~
20 ~~witness, a party, or counsel to participate in a hearing remotely.~~

21
22 ~~(3) The remote appearance must enable:~~

23
24 ~~(3)(A) a party and the party's counsel to communicate confidentially;~~

25
26 ~~(3)(B) documents, photos and other things that are delivered in the courtroom to be~~
27 ~~delivered previously or simultaneously to the remote participants;~~

28
29 ~~(3)(C) interpretation for a person of limited English proficiency; and~~

30
31 ~~(3)(D) a verbatim record of the hearing.~~

32
33
34
35 ~~Effective May 1, 2016~~