

**AMENDED UNIFORM TRIAL COURT RULES
(Effective August 1, 2021)
AND SUMMARY OF OTHER UTCR COMMITTEE ACTIONS**

I. INTRODUCTION

The amended Uniform Trial Court Rules (UTCR) take effect on August 1, 2021. The amendments are the result of suggestions and comments received from the public, bench, bar, and interested agencies. Unless otherwise noted, the proposed amendments were posted on the Oregon Judicial Department (OJD) website to invite public comment. Additional information on the UTCR can be viewed at: www.courts.oregon.gov/programs/utcr/Pages/default.aspx.

II. FUTURE MEETINGS

The next meeting of the UTCR Committee is scheduled for October 15, 2021. The committee will review proposed changes to the UTCR and the Supplementary Local Rules. The committee will make recommendations to the Chief Justice on those proposals. This is the only meeting in the next UTCR cycle at which the committee intends to accept proposals for UTCR changes that would take effect August 1, 2022. Meeting dates for the following year will be scheduled at this meeting.

III. BRIEF DESCRIPTIONS OF SPRING 2021 ACTIONS

See Section IV for detailed explanations. Related changes have been grouped together for the convenience of the reader where possible. Thus, related items are not always listed in rule number order.

A. APPROVED CHANGES

These changes have been approved by the Chief Justice. They become effective on August 1, 2021.

1. 2.010 – FORM OF DOCUMENTS
Amended section (7) of the rule to prohibit the use of firm or attorney logos, watermarks, or similar images on pleadings, motions, orders, judgments, and writs.
2. 2.010 – FORM OF DOCUMENTS
Amended section (12) to align the rule governing judicial signature of conventionally filed documents with the rule governing judicial signature of electronically filed documents. **See related item A.3.**
3. 21.040 – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY
Amended section (3) to align the rule governing judicial signature of electronically filed documents with the rule governing judicial signature of conventionally filed documents. **See related item A.2.**
4. 4.010 – TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES
Amended to allow SLR designating an alternative motion filing timeline. **See related items A.5 and B.3.**

5. 4.060 – MOTION TO SUPPRESS EVIDENCE
Amended sections (1) & (2) to codify *Oxford* and to allow SLR designating an alternative response filing timeline. **See related items A.4 and B.3.**
6. 4.050 – ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES
Amended the rule to allow the court to decide a motion without oral argument in a criminal case, if the court receives documents resolving the motion prior to the hearing. **See related item A.7.**
7. 5.050 – ORAL ARGUMENT ON MOTIONS IN CIVIL CASES; APPEARANCE AT NONEVIDENTIARY HEARINGS AND MOTIONS BY TELECOMMUNICATION
Amended the rule to allow the court to decide a motion without oral argument in a civil case, if the court receives documents resolving the motion prior to the hearing. **See related item A.6.**
8. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS
Amended section (3) to exempt an order allowing a motion for attorney withdrawal from the early service requirement in section (1).
9. 9.090 – CAPTIONING FILINGS IN PROBATE AND PROTECTIVE PROCEEDINGS
Created a new rule regarding caption requirements in probate and protective proceedings.
10. 11.010 – APPLICATION FOR COURT APPOINTED COUNSEL
Amended sections (1) and (2) to require a declaration instead of a verified or sworn statement.
11. 21.080 – ELECTRONIC FILING AND ELECTRONIC FILING DEADLINES
Amended section (6) to clarify the process for relation-back of filed documents when the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document.
12. UTCR FORMS APPENDIX
Repealed the UTCR Forms Appendix and moved each form in the Appendix to the OJD forms website. **See related items A.13 – A.28.**
13. 2.100 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 and A.14 – A.28.**
14. 2.110 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, PROCEDURES TO SEGREGATE WHEN INFORMATION ALREADY EXISTS IN A CASE FILE
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.13 and A.15 – A.28.**

15. 4.100 – CRIME VICTIM’S RIGHTS – PROSECUTOR’S NOTIFICATION AND CRIME VICTIMS’ RIGHTS VIOLATION CLAIM
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.14 and A.16 – A.28.**
16. 5.080 – STATEMENT FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.15 and A.17 – A.28.**
17. 5.120 – NOTICE TO THE DEPARTMENT OF JUSTICE, CRIME VICTIMS’ ASSISTANCE SECTION, OF PUNITIVE DAMAGES
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.16 and A.18 – A.28.**
18. 5.130 – INTERSTATE DEPOSITION INSTRUMENTS – OBTAINING AN OREGON COMMISSION
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.17 and A.19 – A.28.**
19. 5.140 – OREGON DISCOVERY IN FOREIGN PROCEEDINGS
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.18 and A.20 – A.28.**
20. 5.150 – STREAMLINED CIVIL JURY CASES
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.19 and A.21 – A.28.**
21. 8.080 – STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.20 and A. 22 – A.28.**
22. 8.100 – PROCEDURE FOR WAIVER OF MARRIAGE FEE UNDER ORS 106.120
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.21 and A.23 – A.28.**
23. 8.120 – INFORMAL DOMESTIC RELATIONS TRIAL
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.22 and A.24 – A.28.**

24. 9.160 – FORM OF ACCOUNTINGS
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.23 and A.25 – A.28.**
25. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.24 and A.26 – A.28.**
26. 9.400 – COURT VISITOR'S REPORT
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.25 and A.27 – A.28.**
27. 9.410 – PROTECTIVE PROCEEDING – CONFIDENTIAL INFORMATION ORDER
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.26 and A.28.**
28. 10.010 – PETITION FOR REVIEW OF ORDER OF SUSPENSION UNDER ORS 813.410
Replaced references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.27.**

B. PROPOSALS NOT ADOPTED

1. 2.010 – FORM OF DOCUMENTS
Amend section (6) to allow conventional filing of a document containing an electronic signature. **See related items C.10 and D.1.**
2. 3.190 – CIVIL ARRESTS
Amend section (1) to expand the prohibition on civil arrests to include individuals traveling to or from the courthouse.
3. 4.060 – MOTION TO SUPPRESS EVIDENCE
Amend section (4) to state that the court should grant a party additional time for reply if citations to authorities are not provided by opposing counsel prior to the hearing on the motion to suppress. **See related items A.4 and A.5.**
4. 4.120 – TIME FOR FILING CITATIONS
Create a new rule requiring a citation to be filed at least 72 hours before the time set for appearance on the citation or information, and excuse non-appearance of the defendant if the citation or information is not timely filed.
5. 5.140 – OREGON DISCOVERY IN FOREIGN PROCEEDINGS
Amend to clarify filing requirements for foreign subpoenas.

6. 8.010 – ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT
Amend to allow the USD to be submitted as an exhibit instead of filed with the court.
7. 21.080 – ELECTRONIC FILING AND ELECTRONIC FILING DEADLINES
Review section (5) for conflict with ORS 21.100, considering rulings by the Appellate Commissioner and the Court of Appeals in *Otnes v. PCC Structural, Inc.*, A167525.
8. 21.100 – ELECTRONIC SERVICE
Remove the requirement that a filer enter their service contact information at the time of preparing the filer’s first electronic filing in each action.

C. OUT-OF-CYCLE AMENDMENTS

1. 3.170 – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)
Amended section (9) to conform the rule to Oregon Laws 2020, chapter 14, (2020 1st Special Session House Bill 4214).
2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS
Amended section (3) to update citations to statutes governing child support matters.
3. 11.130 – NEW DEPENDENCY PETITION ALLEGATIONS, WHEN CHILD IS A WARD
Adopted a new rule governing additional dependency allegations concerning an existing ward. **See related item C.4.**
4. 11.140 – DEPENDENCY JUDGMENTS OF JURISDICTION AND DISPOSITION
Adopted a new rule governing dependency judgments of jurisdiction. **See related item C.3.**
5. 21.010 – DEFINITIONS
Reviewed public comment on out-of-cycle amendment of section (8). **See related item C.6.**
6. 21.070 – SPECIAL FILING REQUIREMENTS
Reviewed public comment on out-of-cycle amendment of section (3)(m). **See related item C.5.**
7. 21.070 – SPECIAL FILING REQUIREMENTS
Updated the citation to ORCP 55 H(2)(c) in subsection (3)(j) to ORCP 55 D(8)(a).
8. 21.070 – SPECIAL FILING REQUIREMENTS
Updated the citation in subsection (3)(r) from Oregon Laws 2019, chapter 472, section 1 (2019 Senate Bill 962), to ORS 147.620.
9. 21.090 – ELECTRONIC SIGNATURES
Reviewed public comment of out-of-cycle amendment of section (4), allowing electronic notary signatures.

10. 21.090 – ELECTRONIC SIGNATURES
Reviewed public comment of out-of-cycle amendment allowing electronic signatures on declarations. **See related item B.1 and D.1.**
11. 21.120 – RETENTION OF DOCUMENTS BY FILERS AND CERTIFICATION OF ORIGINAL SIGNATURES
Reviewed public comment of out-of-cycle repeal.

D. OTHER

1. 1.110 – DEFINITIONS
Amend to add definitions of “authenticated signature”, “electronic signature”, and “original signature”. **See related items B.1 and C.10.**
2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS
Recommended modification of the Reporter’s Note to include orders setting aside a record of arrest.
3. Committee Membership
Update.
4. Fall 2021 Meeting
October 15, 2021.

IV. DETAILED DESCRIPTIONS OF SPRING 2021 ACTIONS

A. APPROVED CHANGES

These changes have been approved by the Chief Justice. They are effective on August 1, 2021.

Deletions are shown in [*brackets and italics*]. Additions are shown in {**braces, underline, and bold**}. New rules or forms are shown without use of [*brackets and italics*] or {**braces, underline, and bold**}.

1. 2.010 – FORM OF DOCUMENTS

PROPOSAL

Amend section (7) of the rule to prohibit the use of firm or attorney logos, watermarks, or similar images on pleadings, motions, orders, judgments, and writs.

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Shelly Perkins, Clackamas attorney and UTCR Committee member, on April 3, 2020. At the fall meeting on October 2, 2020, the proponent noted that many attorneys include their firm logos or watermarks and other images on documents submitted to the court.

At its October 2, 2020 meeting, the committee discussed that:

- Logos may be large or colorful and can be distracting to a reader; and
- Logos detract from the formality due a serious legal proceeding.

APPROVED AMENDMENT

2.010 FORM OF DOCUMENTS

(1) * * *

* * * * *

(7) Attorney or Litigant Information

All documents must include the author's court contact information under UTCR 1.110(1) and, if prepared by an attorney, the name, email address, and the Bar number of the author and the trial attorney assigned to try the case. **{Law firm and attorney logos, watermarks, or other such images must not appear on any pleading, motion, order, judgment, or writ.}**

2. 2.010 – FORM OF DOCUMENTS

PROPOSAL

Amend section (12) to align the rule governing judicial signature of conventionally filed documents with the rule governing judicial signature of electronically filed documents. **See related item A.3.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This item, and related item A.3, were added to the agenda in response to an inquiry received from Jeff Hall, Deschutes County Circuit Court Trial Court Administrator, on February 14, 2020. Mr. Hall requested an amendment to Form UTCR 2.110.4a to align the judicial signature block on the form with the requirement in UTCR 21.040(3). The request from Mr. Hall indicated that Deschutes County Circuit Court has received electronic form filings from attorneys that do not meet the requirements of UTCR 21.040(3). UTCR 21.040(3) requires electronically filed documents submitted for judicial signature to contain not less than 1.5 inches of blank space following the last line of text before a blank signature line (with no text underneath the line). The current conventional filing rule, UTCR 2.010(12)(b), requires the name of the judge to be typed, stamped, or printed below the signature line. Because the judicial signature line requirement in the conventional filing rule and the electronic filing rule cannot be complied with simultaneously, it is not currently possible to create a form that is suitable for both conventional and electronic filers.

The committee first discussed the possibility of creating one judicial signature block requirement that would apply to all documents submitted for judicial signature at the April 3, 2020, UTCR meeting. The amendment applies the current judicial signature requirements that apply only to electronically filed documents to both conventionally and electronically filed documents, and removes the requirements from UTCR 21.040(3). This amendment also allows a conventionally filed document to be scanned and electronically signed by the judge, as often occurs.

At the October 2, 2020, meeting, the committee modified the proposal to retain the first sentence of current 2.010(12)(b), which requires the judge's signature to appear on a page containing at least two lines of text. This modification is reflected in the final approved amendment below.

APPROVED AMENDMENT

2.010 FORM OF DOCUMENTS

(1) * * *

* * * * *

(12) Orders, Judgments or Writs

- (a) The body of a proposed order, judgment, or writ must clearly state the substance of the court's ruling.
- (b) The judge's signature portion of any order, judgment or writ prepared for the court must appear on a page containing at least two lines of the text. *[Except for electronically filed documents subject to UTCR 21.040(3), orders, judgments or writs embodying the ruling of a particular judge must have the name of the judge typed, stamped or printed under the signature line.]* **A proposed order or judgment, or any other document that requires court signature, must include, for the purpose of affixing a signature and signature date, a blank space of not less than 1.5 inches and a blank line following the last line of text.**

Example:

Petitioner's motion for a stay is granted. The proceedings in this action are held in abeyance pending further notification from petitioner of completion of the conditions set out in this order.

(at least 1.5 inches of blank space following last line of text)

_____ }

(c) * * *

* * * * *

3. 21.040 – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

PROPOSAL

Amend section (3) to align the rule governing judicial signature of electronically filed documents with the rule governing judicial signature of conventionally filed documents. **See related item A.2.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.2.

APPROVED AMENDMENT

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

(1) * * *

* * * * *

[(3) *A proposed order or judgment, or any other document that requires court signature that is submitted electronically, must include, for the purpose of affixing a signature and signature date, a blank space of not less than 1.5 inches and a blank line following the last line of text.*

Example:

Petitioner’s motion for a stay is granted. The proceedings in this action are held in abeyance pending further notification from petitioner of completion of the conditions set out in this order.

(at least 1.5 inches of blank space following last line of text)

_____]

{(3)}[(4)] When viewed in an electronic format and when printed, a submitted document must comply with the requirements of ORCP 9 E and UTCR 2.010 except as to any requirement that a document bear a physical signature when filed.

{(4)}[(5)] When submitting an electronic filing that creates a new case or adds a party to an existing case,

- (a) A filer must enter into the “Add Party” screen the names of all known parties or all parties being added; and
- (b) A filer must enter party names in proper case, for example, “John Doe” and not “JOHN DOE.”

{(5)}[(6)] The court may reject submitted documents that do not comply with these provisions as provided in UTCR 21.080(5).

4. 4.010 – TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

PROPOSAL

Amend to allow SLR designating an alternative motion filing timeline. **See related items A.5 and B.3.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention,

the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the UTCR Motion to Suppress Workgroup on March 10, 2020. The proposal amends 4.010 to allow SLR designating an alternate motion filing timeline. See explanation for related items A.5 and B.3.

APPROVED AMENDMENT

4.010 TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

{In the absence of a showing of good cause or an SLR to the contrary, m}*[M]otions for pretrial rulings on matters subject to ORS 135.037 and ORS 135.805 to 135.873 must be filed in writing not less than 21 days before trial or within 7 days after the arraignment, whichever is later[, unless a different time is permitted by the court for good cause shown].*

5. 4.060 – MOTION TO SUPPRESS EVIDENCE

PROPOSAL

Amend sections (1) & (2) to codify *Oxford* and to allow SLR designating an alternative response filing timeline. **See related items A.4 and B.3.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanations for related items A.4 and B.3.

APPROVED AMENDMENT

4.060 MOTION TO SUPPRESS EVIDENCE

(1) All motions to suppress evidence:

- (a) Must cite any constitutional provision, statute, rule, case, or other authority upon which it is based; and
- (b) Must include in the motion document the moving party's brief, which must sufficiently apprise the court and the adverse party of the arguments relied upon. **{If the evidence sought to be suppressed was obtained without a warrant, it is sufficient for the moving party to so state.}**

(2) Any response to a motion to suppress:

- (a) *[Together with opposing affidavits, if any, upon which it is based must be in writing and must be served and filed, absent a showing of good cause,]{**Must, in the absence of a showing of good cause or an***

SLR to the contrary, be served and filed, together with opposing affidavits, if any, upon which it is based, not more than 7 days after the motion to suppress has been filed;

- (b) Must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement of the extent to which it is not opposed; and
- (c) Must make specific reference to any affidavits relied on and must be accompanied by an opposition brief adequate reasonably to apprise the court and moving party of the arguments and authorities relied upon.

(3) * * *

* * * * *

6. 4.050 – ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES

PROPOSAL

Amend the rule to allow the court to decide a motion without oral argument in a criminal case, if the court receives documents resolving the motion prior to the hearing. **See related item A.7.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Michelle Leonard, 10th Judicial District (Union and Wallowa County Circuit Courts) Trial Court Administrator, on June 11, 2020. The proponent's written submission noted that:

- Current 4.050 (and 5.050, see related item A.7) requires the court to allow oral argument whenever it is requested by either party, even if the response to the motion indicates that the responding party does not object (unless the motion requests a continuance in a criminal case);
- This situation creates difficulties in handling the court's hearing docket efficiently, since time slots may be used for oral argument on motions where there is no real dispute among the parties, or where the dispute was resolved prior to the time for hearing; and
- The proposal allows a court to deny the request for oral argument if the court receives documents that resolve the motion prior to the time set for hearing.

At the October 2, 2020, committee meeting, the committee discussed:

- Whether "documents" includes an email or a voicemail delivered to the court;
- Whether this issue could be resolved by requiring a party to withdraw a motion when the issue is resolved prior to the hearing;

- Even if the issue has been resolved, a party may not want to withdraw the motion, because the party may still desire or need an order granting the motion;
- Judges retain some discretion to hold oral argument, even if it appears that the issue has been resolved prior to the hearing; and
- Whether the needs for criminal cases (UTCR 4.050) are different from those in civil cases (UTCR 5.050).

APPROVED AMENDMENT

4.050 ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES

(1) [*There must be o*]{**O**}ral argument {**may be**}[*if*] requested by the moving party in the caption of the motion or by a responding party in the caption of a response[, *except that the court is not required to grant oral argument on a motion to postpone trial*]. The first paragraph of the motion or response must include an estimate of the time required for argument and a statement whether official court reporting services are requested. **The court must allow oral argument unless:**

(a) The motion requests a trial postponement; or

(b) The court receives documents that resolve the motion before the time set for hearing.

(2) * * *

* * * * *

7. **5.050** – ORAL ARGUMENT ON MOTIONS IN CIVIL CASES; APPEARANCE AT NONEVIDENTIARY HEARINGS AND MOTIONS BY TELECOMMUNICATION

PROPOSAL

Amend the rule to allow the court to decide a motion without oral argument in a civil case, if the court receives documents resolving the motion prior to the hearing. **See related item A.6.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See related item A.6.

APPROVED AMENDMENT

5.050 ORAL ARGUMENT ON MOTIONS IN CIVIL CASES; APPEARANCE AT NONEVIDENTIARY HEARINGS AND MOTIONS BY TELECOMMUNICATION

(1) [*There must be o*]{**O**}ral argument {**may be**}[*if*] requested by the moving party in the caption of the motion or by a responding party in the caption of a response. The first paragraph of the motion or response must include an estimate of the time required for argument and a statement whether official court reporting services are requested. **{The court must allow oral argument unless the court receives documents which resolve the pending motion before the time set for hearing.}**

(2) * * *

* * * * *

8. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

PROPOSAL

Amend section (3) to exempt an order allowing a motion for attorney withdrawal from the early service requirement in section (1).

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Jacqueline Swanson, Portland attorney, on June 10, 2020. At the October 2, 2020, committee meeting, the proponent requested that the committee exempt proposed orders allowing attorney resignation under UTCR 3.140 from the advance service requirement in UTCR 5.100(1).

At the October 2, 2020, committee meeting, the committee discussed that:

- Opposing counsel does not usually object to a request for attorney resignation;
- UTCR 3.140 already requires a resigning attorney to provide certain contact and other information to the court, and to serve the client and the opposing party's attorney with the application for resignation; and
- The attorney's withdrawal may be ethically required, and an attorney should not have to wait 3 or 7 days to file an order granting resignation in that circumstance.

APPROVED AMENDMENT

5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

(1) * * *

* * * * *

(3) The requirements of subsection (1) of this rule do not apply to:

(a) * * *

* * * * *

{(f) A proposed order allowing attorney resignation under UTCR 3.140.}

9. **9.090** – CAPTIONING FILINGS IN PROBATE AND PROTECTIVE PROCEEDINGS

PROPOSAL

Create a new rule regarding caption requirements in probate and protective proceedings.

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Matt Whitman, Portland attorney, on July 16, 2020. At the October 2, 2020, UTCR Committee meeting, the proponent discussed that:

- In probate proceedings, the attorney for the claimant often names the personal representative in the case caption, but does not name the decedent.
- Omitting the name of the decedent, or the protected person in litigation, may cause confusion for court staff and judges.
- The proposed amendment requires the caption in a probate filing to contain the name of the decedent and requires the caption in a protective proceeding to contain the name of the protective proceeding or respondent.
- The proposal has been discussed by the Probate Modernization Task Force and others, and there is widespread agreement that this is a needed improvement.

NEW RULE

A new rule contains all new wording so there is no use of *[brackets and italics]* or **{braces, underline, and bold}**.

9.090 CAPTIONING FILINGS IN PROBATE AND PROTECTIVE PROCEEDINGS

The captions of all probate filings must contain the name of the decedent. The captions of all filings in protective proceedings must contain the name of the protective proceeding or respondent. A filing in a contested matter in a probate or protective proceeding must also contain the names and roles of the parties seeking relief and against whom relief is sought.

For example:

In the Matter of the Estate of)	
)	Case No. _____
JANE DOE,)	
)	
Deceased.)	
_____)	
COLLECTION CO. LLC,)	REQUEST FOR SUMMARY
)	DETERMINATION
Claimant,)	
)	
v.)	
)	
RICHARD ROE,)	
)	
Personal Representative.)	

10. 11.010 – APPLICATION FOR COURT APPOINTED COUNSEL

PROPOSAL

Amend sections (1) and (2) to require a declaration instead of a verified or sworn statement.

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of approval became the committee’s final recommendation of approval.

EXPLANATION

This proposal was submitted by Holly Rudolph, OJD Forms Manager, on May 12, 2020. The proposal updates wording requiring a “sworn” or “verified” statement of financial condition to accompany an application for court appointed counsel to instead require a declaration of financial condition under penalty of perjury. The proponent stated that the “sworn” statement requirement could be interpreted to require a notarized affidavit, and currently, forms that require notarization cannot be submitted through Guide & File. This change aligns the wording with other UTCR that allow either a declaration or an affidavit.

APPROVED AMENDMENT

11.010 APPLICATION FOR COURT APPOINTED COUNSEL

- (1) An application for a court appointed counsel and a [*sworn statement*]{**declaration**} of financial condition{, **under penalty of perjury,**} shall be provided for each affected adult and child on intake or at the earliest practicable other time.
- (2) Counsel may be appointed for a child in any case, but counsel will not be appointed for any adult person unless that person files a [*verified financial statement*] {**declaration of financial condition, under penalty of perjury,**} and any other information in writing and under oath that the court may require or that the applicant desires to submit relating to the applicant's financial ability to retain counsel.
- (3) On receipt of an application, the court shall promptly rule in the matter. If the application is granted, the court shall promptly appoint counsel and notify counsel of the appointment.

11. 21.080 – ELECTRONIC FILING AND ELECTRONIC FILING DEADLINES

PROPOSAL

Amend section (6) to clarify the process for relation-back of filed documents when the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document.

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the OJD Law & Policy Workgroup (LPWG), on September 3, 2020. The proposal updates the relation-back approach for electronic filings when the eFiler encounters technical difficulties on the court's (or OJD's) end. Currently, if a filer encounters system unavailability or a technical error in transmission, the filer may seek relation-back to the date of submission, and the court has discretion whether or not to grant the request.

The proposal amends the rule and creates a two-pronged approach:

- If the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document, the court must grant the relation-back upon satisfactory proof.
- If the transmission error is due to technical problems with the filer's equipment or within the filer's control, the court may grant a request for relation-back upon a showing of extraordinary circumstances.

The committee discussed whether a filer would know that the transmission error was due to their own equipment, or due to system unavailability or a related error. Generally, the situation occurs when a filer attempts to submit a filing while the system is down for maintenance. In that situation, the filer receives an email or other notification indicating maintenance dates and times.

APPROVED AMENDMENT

21.080 ELECTRONIC FILING AND ELECTRONIC FILING DEADLINES

(1) * * *

* * * * *

(6) **{Except as provided in subsection (c), if}***[If]* the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document, the court **{must}***[may]*, upon satisfactory proof, permit the filing date of the document to relate back to the date that the eFiler first attempted to file the document to meet filing requirements. *[Technical problems with the filer's equipment or attempted transmission within the filer's control will not generally excuse an untimely filing.]*

- (a) A filer seeking relation-back of the filing date due to system unavailability or transmission error described in this section must comply with the requirements in subsection (5)(a) of this rule.
 - (i) The cover letter described in subsection (5)(a)(i) must include the date of the original attempted submission and the date that the filer was notified that the submission was not successful, and explain the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION- BACK DATE OF FILING REQUESTED" in the subject line of the cover letter.
 - (ii) The Filing Comment field notification for an electronic resubmission described in subsection (5)(a)(ii) must include the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED."
 - (iii) The filer may include supporting exhibits that substantiate the system malfunction together with the filer's cover letter.
- (b) A responding party may object in the same manner and subject to the same time calculations as in subsection (5)(b) of this rule.

{(c) Technical problems with the filer's equipment or attempted transmission of a document within the filer's control will not generally excuse an untimely filing. A court may permit the filing date to relate back to the date that the eFiler first attempted to file the document only upon a showing of extraordinary circumstances based on satisfactory proof. A filer seeking

relation-back under this subsection must comply with subsection (6)(a) of this rule and must, in the cover letter, explain why extraordinary circumstances exist.}

12. UTCR FORMS APPENDIX

PROPOSAL

Repeal the UTCR Forms Appendix and move each form in the Appendix to the OJD forms website. **See related items A.13 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Holly Rudolph, OJD Forms Manager, on September 18, 2019. Over the past several years, the UTCR Committee has moved an increasing number of forms to the OJD website. This proposal repeals the Forms Appendix and moves the remaining forms. Related items A.13 – A.28 amend rules that refer to the UTCR Forms Appendix or UTCR Forms, and replace those references with the URL for the OJD Forms Center on the OJD website. Forms on the OJD website are approved by the Statewide Forms Subgroup (SFSG), a subcommittee of the OJD Law & Policy Workgroup (LPWG). This amendment would allow forms to be updated more quickly in response to new legislation or other changes.

At the October 2, 2020, committee meeting, the committee discussed:

- The plan for SFSG to adopt and revise the forms and post them to the OJD website by the time the repeal is effective on August 1, 2021; and
- The OJD website has an option for members of the public to provide feedback on forms, which is similar to the UTCR public comment process.

REPEAL

[Appendix of Forms

<i>Form 2.100.4a</i>	<i>REQUEST TO SEGREGATE PROTECTED PERSONAL INFORMATION FROM CONCURRENTLY FILED DOCUMENT</i>
<i>Form 2.100.4b</i>	<i>UTCR 2.100 SEGREGATED INFORMATION SHEET</i>
<i>Form 2.100.8</i>	<i>REQUEST TO INSPECT UTCR 2.100 SEGREGATED INFORMATION SHEET</i>
<i>Form 2.110.4a</i>	<i>REQUEST TO REDACT PROTECTED PERSONAL INFORMATION FROM EXISTING CASE FILE</i>
<i>Form 4.100.1a</i>	<i>PROSECUTING ATTORNEY'S NOTIFICATION OF COMPLIANCE WITH CRIME VICTIMS' CONSTITUTIONAL RIGHTS</i>

<i>Form 4.100.1b</i>	<i>PROSECUTING ATTORNEY'S NOTIFICATION OF COMPLIANCE WITH CRIME VICTIMS' CONSTITUTIONAL RIGHTS</i>
<i>Form 4.100.2a</i>	<i>CLAIM OF VIOLATION OF CRIME VICTIM'S RIGHT(S) UNDER ARTICLE I, SECTION 42(1)(a) TO (g) OR 43, OF THE OREGON CONSTITUTION</i>
<i>Form 4.100.2b</i>	<i>CLAIM OF VIOLATION OF CRIME VICTIM'S RIGHT(S) UNDER ARTICLE I, SECTION 42(1)(a) TO (g) OR 43, OF THE OREGON CONSTITUTION</i>
<i>Form 5.080</i>	<i>STATEMENT FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS</i>
<i>Form 5.120.1</i>	<i>UNIFORM NOTICE OF ENTRY OF VERDICT/ENTRY OF JUDGMENT INCLUDING AN AWARD OF PUNITIVE DAMAGES</i>
<i>Form 5.130.1a</i>	<i>DECLARATION, MOTION, AND ORDER FOR COMMISSION TO TAKE FOREIGN DEPOSITION</i>
<i>Form 5.130.1b</i>	<i>COMMISSION TO TAKE FOREIGN DEPOSITION</i>
<i>Form 5.140.1c</i>	<i>DECLARATION AND REQUEST FOR ISSUANCE OF A SUBPOENA PURSUANT TO ORCP 38 C</i>
<i>Form 5.140.2</i>	<i>PETITION AND ORDER TO REGISTER FOREIGN DEPOSITION INSTRUMENT AND ISSUE SUBPOENAS</i>
<i>Form 8.080.1</i>	<i>NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS</i>
<i>Form 8.080.2</i>	<i>NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS BETWEEN UNMARRIED PARENTS</i>
<i>Form 8.080.3</i>	<i>REQUEST FOR HEARING RE: STATUTORY RESTRAINING ORDER</i>
<i>Form 8.100.1a</i>	<i>FORM TO REQUEST WAIVER OF FEE (ORS 106.120) WHEN MARRIAGE HANDLED BY A COURT</i>
<i>Form 8.120.1</i>	<i>DOMESTIC RELATIONS TRIAL PROGRESS SELECTION AND WAIVER FOR INFORMAL DOMESTIC RELATIONS TRIAL</i>
<i>Form 9.160</i>	<i>UTCR 9.160 ACCOUNTING FORM</i>
<i>Form 9.180.3</i>	<i>DEPOSITORY CERTIFICATION OF FUNDS ON DEPOSIT</i>
<i>Form 9.400.1</i>	<i>COURT VISITOR'S REPORT ADULT GUARDIANSHIP</i>
<i>Form 9.410.1</i>	<i>ORDER REGARDING CONFIDENTIAL INFORMATION DISCLOSED BY DEPARTMENT OF HUMAN SERVICES OR THE OREGON HEALTH AUTHORITY</i>
<i>Form 10.010.a</i>	<i>PETITION FOR JUDICIAL REVIEW OF ORDER OF DMV</i>
<i>Form 10.010.b</i>	<i>CERTIFICATE OF SERVICE FOR PETITION OF JUDICIAL REVIEW OF ORDER OF DMV</i>

13. 2.100 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 and A.14 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

2.100 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING

(1) * * *

* * * * *

(4) * * *

(a) * * *

(b) Complete a request in substantially the form provided **{at www.courts.oregon.gov/forms***[in UTCR Form 2.100.4a]*. The request must describe generally the protected personal information and set out the legal authority for protecting the information. The request must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.

(c) Complete an information sheet in substantially the form provided **{at www.courts.oregon.gov/forms***[in UTCR Form 2.100.4b]* to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the request prepared under UTCR 2.100(4)(b).

(5) * * *

(6) Court Response. When a completed request is filed under this rule and the court grants the request to segregate, the court will do the following:

(a) Maintain the **{[Segregated Information Sheet](#)***[UTCR Form 2.100.4b]* and any attachments to it as not subject to public inspection unless there is a question about the court's legal authority to keep the specific information from public inspection. The requestor need not obtain the

signature of a judge. As official custodian of the case file under the OPRL, the trial court administrator will resolve any question about whether, or the extent to which, information may be kept from disclosure under this rule unless statute or court order expressly provides otherwise. A request under this rule to keep information confidential, segregated, or exempt from public inspection is not subject to challenge and hearing except as specifically required by law.

- (7) Limits on Protection. When the court grants a request under this rule, the court will protect the submitted **{Segregated Information Sheet}**[*Form 2.100.4b*] from being placed where the general public can inspect it. However, the following limits apply to this confidentiality:
- (8) Inspecting or Copying Protected Personal Information.
 - (a) Except as specifically provided in subsection (7) of this rule, any person who seeks to inspect or copy information segregated and kept from public inspection under this rule must make the request by using a form substantially like **{the Request to Inspect Redacted or Segregated Information Sheet provided at www.courts.oregon.gov/forms}**[*UTCR Form 2.100.8*] and copy the requestor shown on the request and parties to the case as required by UTCR 2.080. **{The Request to Inspect}**[*UTCR Form 2.100.8*] must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E. A court will only grant a request if the person requesting has a right by law, including this rule, to see the information. The court will indicate on the form its response to the request and maintain a copy of all the request forms, with its response, in the case file as a public record.
- (9) Denied Requests. If a court denies a request under this rule:
 - (a) For every piece of personal information on a **{Segregated Information Sheet}**[*UTCR Form 2.100.4b*], the court will attach the request and form to the document from which the information was segregated and place all in the case file.
 - (b) For only some of the personal information on a **{Segregated Information Sheet}**[*UTCR Form 2.100.4b*], the court will:
 - (i) * * *

* * * * *

14. 2.110 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, PROCEDURES TO SEGREGATE WHEN INFORMATION ALREADY EXISTS IN A CASE FILE

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.13 and A.15 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of approval became the committee’s final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

2.110 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, PROCEDURES TO SEGREGATE WHEN INFORMATION ALREADY EXISTS IN A CASE FILE

(1) * * *

* * * * *

(4) Procedure to Follow. A person may only request protected personal information be segregated under this rule when the information is already in a document that has become part of a court case file. To do so, a person must do all the following:

(a) Complete a request in substantially the form provided {at www.courts.oregon.gov/forms}*[in UTCR Form 2.110.4a]*. The request must:

(i) * * *

* * * * *

(b) Complete an information sheet in substantially the form provided {at www.courts.oregon.gov/forms}*[in UTCR Form 2.100.4b]* to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the request prepared under UTCR 2.110(4)(a).

15. 4.100 – CRIME VICTIM’S RIGHTS – PROSECUTOR’S NOTIFICATION AND CRIME VICTIMS’ RIGHTS VIOLATION CLAIM

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. See related items A.12 – A.14 and A.16 – A.28.

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of approval became the committee’s final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

4.100 CRIME VICTIMS' RIGHTS – PROSECUTOR'S NOTIFICATION AND CRIME VICTIMS' RIGHTS VIOLATION CLAIM

- (1) The prosecuting attorney must file a notification of compliance as provided in ORS 147.510, in substantially the form **{provided at www.courts.oregon.gov/forms}***[set out in Form 4.100.1a or 4.100.1b in the UTCR Appendix of Forms]*.
- (2) To allege a violation of a right granted by Article I, section 42 or 43, of the Oregon Constitution, a victim may file a claim in substantially the form **{provided at www.courts.oregon.gov/forms}***[set out in Form 4.100.2a or 4.100.2b in the UTCR Appendix of Forms]*. The claim must be filed with the court clerk's office in the court in which the criminal case is pending.

16. 5.080 – STATEMENT FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.15 and A.17 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

5.080 **{DECLARATION}***[STATEMENT]* FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS

In civil cases, the **{declaration}***[statement]* for attorney fees, costs, and disbursements must be filed in substantially the form *[set forth in Form 5.080 in the UTCR Appendix of Forms]***{provided at www.courts.oregon.gov/forms}**.

17. 5.120 – NOTICE TO THE DEPARTMENT OF JUSTICE, CRIME VICTIMS' ASSISTANCE SECTION, OF PUNITIVE DAMAGES

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.16 and A.18 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

5.120 NOTICE TO THE DEPARTMENT OF JUSTICE, CRIME VICTIMS' ASSISTANCE SECTION, OF PUNITIVE DAMAGES

- (1) The notices required by ORS 31.735(3), concerning verdicts and judgments that include punitive damages, shall substantially be in the form **{provided at www.courts.oregon.gov/forms}***[specified in Form 5.120.1 in the UTCR Appendix of Forms]*.

18. 5.130 – INTERSTATE DEPOSITION INSTRUMENTS – OBTAINING AN OREGON COMMISSION

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.17 and A.19 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

5.130 INTERSTATE DEPOSITION INSTRUMENTS—OBTAINING AN OREGON COMMISSION

- (1) A party shall request a commission pursuant to ORCP 38 to permit a deposition to be taken in a foreign jurisdiction for an action pending in an Oregon circuit court by presenting a motion **{and declaration, in substantially the form available at www.courts.oregon.gov/forms}**, *[affidavit and form of order]* at *ex parte*. *[(See Form 5.130.1a in the UTCR Appendix of Forms.)]* If the motion is allowed, *[the party shall file the motion, affidavit, and signed order with the trial court administrator in the pending civil action. When the order granting the commission is filed, the trial court administrator or the trial court administrator's designee]{the court}* shall issue the commission *[(see Form 5.130.1b in the UTCR Appendix of Forms)]*.

- (2) Unless otherwise requested by the party in its motion and ordered by the court, the commission shall be effective for 28 days from the date of issue.
- (3) The commission may also serve to authorize the issuance of Subpoenas *Duces Tecum* in a foreign jurisdiction.

19. 5.140 – OREGON DISCOVERY IN FOREIGN PROCEEDINGS

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.18 and A.20 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of approval became the committee’s final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

5.140 OREGON DISCOVERY IN FOREIGN PROCEEDINGS

- (1) To obtain discovery in the State of Oregon for a proceeding pending in another state pursuant to Oregon Rule of Civil Procedure (ORCP) 38 C, a party must submit to the court all of the following:
 - (a) * * *
 - * * * * *
 - (c) A declaration and request for issuance of a subpoena pursuant to ORCP 38 C, substantially in the form **{provided at www.courts.oregon.gov/forms}***[specified in Form 5.140.1c in the UTCR Appendix of Forms]*, stating that
 - (i) The foreign subpoena was issued by a court of record of a state as “state” is defined in ORCP 38 C(1)(b);
 - (ii) The fully completed subpoena complies with the requirements of the ORCP, including ORCP 55; and
 - (iii) The fully completed subpoena contains the names, addresses, email addresses, and telephone numbers of all attorneys of record and self-represented parties in the foreign proceeding.
- (2) To obtain discovery in the State of Oregon for a proceeding pending in a foreign jurisdiction not subject to ORCP 38 C, a party must file a writ, mandate, commission, letter rogatory, or order executed by the appropriate authority in the foreign jurisdiction with a circuit court of this state. The party

in the foreign proceeding or an active member in good standing of the Oregon State Bar must present in person at *ex parte* the original document or a certified copy from the foreign jurisdiction, a petition, and an order to register the document **{in substantially the form provided at www.courts.oregon.gov/forms}**. [(See Form 5.140.2 in the *UTCR Appendix of Forms*.)] If approved by the court, the matter will be assigned a circuit court case number and appropriate process may be issued by the Oregon attorney.

(3) * * *

* * * * *

20. 5.150 – STREAMLINED CIVIL JURY CASES

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.19 and A.21 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

5.150 STREAMLINED CIVIL JURY CASES

- (1) A civil case eligible for jury trial may be designated as a streamlined case. The availability of the designation may vary by judicial district and is dependent on the availability of staff, judges, and courtrooms. A party seeking the designation must confer with the court to determine whether the designation is available. If it is available, a party seeking the designation must do all of the following:
 - (a) Obtain the agreement of all other parties to designate the case as a streamlined civil jury case.
 - (b) Submit a joint motion [*and an order*] to the presiding judge in substantially the form **{s}**[*as*] set out on the Oregon Judicial Department website (<http://www.courts.oregon.gov/Pages/default.aspx>).

21. 8.080 – STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.20 and A.22 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

8.080 STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS

- (1) The form of notice {**provided at www.courts.oregon.gov/forms**} [*specified in Form 8.080.1 in the UTCR Appendix of Forms*] must be used for the statutory restraining order established by ORS 107.093. The petitioner must ensure that a copy of the notice is attached to the summons as required by ORS 107.093(5). The notice need not be signed by a judge.
- (2) The form of notice {**provided at www.courts.oregon.gov/forms**} [*specified in Form 8.080.2 in the UTCR Appendix of Forms*] must be used for the statutory restraining order established by ORS 109.103(5). The petitioner must ensure that a copy of the notice is attached to the summons as required by ORS 109.103(5)(d). The notice need not be signed by a judge.
- (3) The request for hearing required by ORS 107.093(3) or 109.103(5)(b) shall be in substantially the same form as {**provided at www.courts.oregon.gov/forms**} [*specified in Form 8.080.3 in the UTCR Appendix of Forms*].

22. 8.100 – PROCEDURE FOR WAIVER OF MARRIAGE FEE UNDER ORS 106.120

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.21 and A.23 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

8.100 PROCEDURE FOR WAIVER OF MARRIAGE FEE UNDER ORS 106.120

- (1) To obtain a waiver of the fee required to be paid under ORS 106.120 before a circuit, appellate, or tax court judge can perform weddings in certain circumstances, both persons wishing to be married must do all the following:
 - (a) Complete **a request in substantially the form provided at www.courts.oregon.gov/forms***[a UTCR Form 8.100.1a in the attached UTCR Appendix of Forms]*.
 - (b) Submit the completed form to a circuit court judge serving the county where the wedding will be performed for review and appropriate action.
 - (c) If the request is granted by the judge under (b) of this subsection, give the copy of the signed waiver to the judge who will solemnize the ceremony.

(2) * * *

* * * * *

23. 8.120 – INFORMAL DOMESTIC RELATIONS TRIAL

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.22 and A.24 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of approval became the committee’s final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

8.120 INFORMAL DOMESTIC RELATIONS TRIAL

(1) * * *

- (2) The parties may select an Informal Domestic Relations Trial within 14 days of a case subject to this rule being at issue (see UTCR 7.020(6)). The parties must file a Trial Process Selection and Waiver for Informal Domestic Relations Trial in substantially the form **provided at**

www.courts.oregon.gov/forms}[specified in Form 8.120.1 in the UTCR Appendix of Forms]. This form must be accepted by all judicial districts. SLR 8.121 is reserved for the purpose of making such format mandatory in the judicial district and for establishing a different time for filing the form that is more consistent with the case management and calendaring practices of the judicial district.

(3) * * *

* * * * *

24. 9.160 – FORM OF ACCOUNTINGS

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.23 and A.25 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

9.160 FORM OF ACCOUNTINGS

Accountings substantially in the form {**provided at www.courts.oregon.gov/forms**}[specified in Form 9.160 in the UTCR Appendix of Forms], as further explained in this rule, must be accepted by all judicial districts. Accountings in this format may be made mandatory by SLR. SLR 9.161 is reserved for purposes of making such format mandatory in the judicial district.

(1) * * *

* * * * *

25. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.24 and A.26 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention,

the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

9.180 VOUCHERS AND DEPOSITORY STATEMENTS

(1) * * *

* * * * *

(3) In a proceeding involving fiduciary accounts for which the depository does not issue regular statements, the court must accept a Depository Certification of Funds on Deposit that is substantially in the form **provided at www.courts.oregon.gov/forms***[specified in Form 9.180.3 in the UTCR Appendix of Forms]*.

26. 9.400 – COURT VISITOR'S REPORT

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.25 and A.27 – A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

9.400 COURT VISITOR'S REPORT

A court visitor must file the court visitor's report in an adult guardianship in substantially the form *[of UTCR 9.400.1]***provided at www.courts.oregon.gov/forms** unless the judicial district in which the report will be filed has adopted another form by SLR or by Presiding Judge Order pursuant to ORS 125.165(1)(b) and the form adopted by that judicial district includes all of the information required *[by UTCR Form 9.400.1]*.

27. 9.410 – PROTECTIVE PROCEEDING – CONFIDENTIAL INFORMATION ORDER

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.26 and A.28.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

9.410 PROTECTIVE PROCEEDING – CONFIDENTIAL INFORMATION ORDER

A person who submits to the court confidential and protected information from the Department of Human Services or the Oregon Health Authority pursuant to ORS 125.012 [*must at the same time submit a proposed order in substantially the form of UTCR Form 9.410.1. The person*] must serve a copy of the order signed by the court on all parties to the proceeding.

28. 10.010 – PETITION FOR REVIEW OF ORDER OF SUSPENSION UNDER ORS 813.410

PROPOSAL

Replace references to UTCR forms with a link to the OJD forms website to conform with repeal of the UTCR Forms Appendix. **See related items A.12 – A.27.**

ACTION TAKEN

The committee received no public comment. No motion was made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

See explanation for related item A.12.

APPROVED AMENDMENT

10.010 PETITION FOR REVIEW OF ORDER OF SUSPENSION UNDER ORS 813.410

A petition for review of a final order of the Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) must be filed with the trial court administrator. Copies of the petition must be served on the DMV and

the Attorney General. The petition filed with the trial court administrator must contain a certificate of service of the above copies. The petition as filed and served must be accompanied by a copy of the final order of the DMV from which the appeal is taken. The petition for review and the certificate of service must be substantially in the form **{provided at www.courts.oregon.gov/forms}***[specified in Form 10.010.a and Form 10.010.b in the UTCR Appendix of Forms]*.

B. PROPOSALS NOT ADOPTED

1. 2.010 – FORM OF DOCUMENTS

PROPOSAL

Amend section (6) to allow conventional filing of a document containing an electronic signature. **See related item C.10 and D.1.**

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Sam Dupree, OJD Assistant General Counsel, on June 22, 2020. The proposed amendment allows a party to conventionally file a document containing an electronic signature. The proposed amendment requires the filer to certify, by filing, that the signature purporting to be that of the signer is in fact that of the signer, and to retain the electronic document until entry of a general judgment or other judgment or order that conclusively disposes of the action. These certification and retention requirements already apply to electronically filed documents that contain electronic signatures. See UTCR 21.090(7) and (8).

At the October 2, 2020, meeting, the committee discussed:

- How the proposed amendment would apply to conventionally filed documents containing an "s/";
- Whether the proposed amendment requires the filer to retain the electronic document, or an audit trail, as required for electronically filed documents containing an electronic signature;
- Public comments expressing confusion between electronic and digital signatures; and
- Whether "electronic signature" and "digital signature" should be defined separately, and whether those definitions should be referenced in all UTCRs relating to electronic signatures; and
- Whether 2.010(6) should reference the existing provisions in 21.090(7) and (8) instead of restating those provisions in 2.010.

The proponent agreed to consider the committee's comments, as well as public comment received regarding clarification of digital and electronic signature

requirements, and to present a revised proposal for consideration at the spring meeting.

At the spring meeting on March 5, 2021, the committee considered a proposal to further amend UTCR 2.010 and 21.090 and to add definitions of “authenticated signature,” “electronic signature,” and “original signature” to UTCR 1.110. The committee discussed that:

- Electronic signature is a broad term that includes digital signatures, which are a specific type of electronic signature that utilizes a mathematical algorithm to generate two “keys” one public and one private;
- UTCR 21.090 is not intended to require a digital signature, in part because most commercially available electronic signature do not meet the “digital signature” requirements;
- Many available electronic signature products do meet the “security procedure” requirement in UTCR 21.090(6);
- The UTCR could be amended to define signature terms and consistently use those terms throughout the body of rules;
- The rules should not be amended without additional time for public comment and input.

Proposals to amend UTCR 1.110 and to further amend UTCR 2.010 and 21.090 will be carried over to the agenda for the October 15, 2021, committee meeting.

PROPOSED AMENDMENT

2.010 FORM OF DOCUMENTS

(1) * * *

* * * * *

(6) Party Signatures and Electronic Court signatures

- (a) The name of the party [*or attorney*] signing any pleading or motion must be typed or printed immediately below the signature. All signatures must be dated.
- (b) **{A party may conventionally file a pleading, motion, or declaration containing an electronic signature:**
 - (i) The party certifies by filing that, to the best of the party’s knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer; and**
 - (ii) Unless the court orders otherwise, the party must retain the electronic document until entry of a general judgment or other judgment or order that conclusively disposes of the action.}**

~~(c)~~ The court may issue judicial decisions electronically and may affix a signature by electronic means.

(i) The trial court administrator must maintain the security and control of the means for affixing electronic signatures.

(ii) Only the judge and the trial court administrator, or the judge's or trial court administrator's designee, may access the means for affixing electronic signatures.

(7) * * *

* * * * *

2. 3.190 – CIVIL ARRESTS

PROPOSAL

Amend section (1) to expand the prohibition on civil arrests to include individuals traveling to or from the courthouse.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by ACLU of Oregon, Adelante Mujeres, Causa Oregon, Immigration Counseling Service, Innovation Law Lab, Metropolitan Public Defender, Northwest Workers' Justice Project, Stoll Berne, Unite Oregon, and Victim Rights Law Center on September 3, 2019.

At the October 18, 2019, meeting, the proponents discussed:

- ACLU efforts, FOIA, and other litigation to get information on ICE activities;
- ICE incidents in Oregon circuit courts;
- The impact of ICE activities on court processes;
- Fear in certain communities that keeps them from going to a courthouse;
- The increase in ICE courthouse arrests;
- The administrative procedure nature of ICE civil warrants;
- Questions over whether ICE has obtained a civil warrant in all instances;
- Court rules and legislation in other states limiting ICE activity in courthouses;
- The common law privilege against civil arrest;
- Supremacy Clause issues;
- The desire to prevent civil arrest when a person is going to or coming from a courthouse;
- Writs of protection;

- Enforcement of the proposed prohibition in the immigration case by way of a motion to suppress;
- Enforcement of the proposed prohibition through litigation against ICE;
- The need for the courts to have this rule, either in lieu of or in addition to state legislation, in light of comity and sovereign immunity;
- The broad applicability of the rule to parties, witnesses, family members, and people engaging in courthouse business;
- That they don't want to pit state law enforcement agencies and court security personnel against federal officers;
- That they don't expect judges to order an arrest or initiate a confrontation with ICE; and
- Compliance by ICE with rules in other states.

At the October 18, 2019, meeting, the committee discussed:

- Judges' concerns over how to enforce the proposed rule and the difficulties in enforcing it against federal officials;
- Whether this matter is better suited for the legislature;
- Whether the "going to or coming from a courthouse" part of the proposed rule is too broad and too difficult to enforce;
- Concern about implementing a court rule that governs activity away from the courthouse;
- Whether the proposed rule should include a remedies or enforceability section;
- Issues with imposing contempt orders against ICE;
- Concern over a rule that is aspirational with no clear enforcement mechanism;
- Concern over the risk of a state judicial officer being charged with obstruction of justice;
- Concern over the court staff role in responding to ICE activity in the courthouse;
- The need to have people participate in court proceedings and the urgency of the ICE situation, which deters participation; and
- Concern over whether this is appropriate for a state trial court rule and whether it might better be addressed by Chief Justice Order.

At the October 18, 2019, meeting, the committee modified the proposal to:

- Strike the "going to or coming from a courthouse" section;
- Add "environs of the courthouse" to the first section of the proposed rule; and
- Recommend addition of a provision clarifying the parameters of sanctions and enforcement of the rule.

Following the October 18, 2019, UTCR meeting, the Chief Justice further modified the proposed rule and adopted a final version in Chief Justice Order 19-

095, effective November 14, 2019. At the April 3, 2020, meeting, the proponents discussed:

- A general belief that the rule is working and is increasing community safety;
- Arrests continue to occur just outside the boundaries of the rule, in the form of vehicle stops, and that these arrests undercut the rule;
- A desire to see the rule expanded to the full extent of the common law privilege, to include individuals travelling to and from courthouses; and
- Other states have proposed rules that prohibit civil arrests within a mile of a courthouse.

At the April 3, 2020, meeting, the committee discussed:

- Recent ICE arrests that occurred outside the Multnomah County Courthouse;
- Recent ICE arrests in and around the Sonoma County, California courthouse;
- The committee does not know of any requests to enforce the existing rule;
- Whether expansion of the prohibition on civil arrests would be more appropriate for legislation;
- Whether public safety is at risk;
- The desire for more detail and statistics regarding the effect of the rule on law enforcement actions;
- The desire for more briefing on the common law privilege and on authority for expanding the rule; and
- Whether the committee should consider an expansion of the rule to include individuals travelling to and from the courthouse at the present time or whether the committee should wait until the fall meeting to consider a formal proposal from the proponents after receiving updated information.

At the October 2, 2020, meeting, the proponents discussed:

- A continuing belief that the existing rule is working and is increasing community safety;
- Washington state adopted a broader trial court rule that prohibits arrests within one mile of the courthouse;
- Despite only one known arrest that has occurred in violation of the existing rule, ICE continues to “lie in wait” to arrest individuals as they leave the courthouse environs;
- A belief that arrests occurring just outside the boundaries of the courthouse undercut the existing rule, and the common law privilege against arrest;
- ICE arrests are difficult to track, and the ACLU is pursuing a FOIA request that could reveal additional arrests and violations of the existing rule.

At the October 2, 2020, meeting, the committee discussed:

- A continuing concern about expanding trial court rules to apply to arrests that occur outside the courthouse environs;
- Concerns regarding judicial enforcement, and whether broadening the rule could make judicial enforcement more difficult; and

- A belief that if a broader remedy is necessary, that remedy should come from the state legislature or Congress.

At the March 5, 2021, meeting, the committee discussed:

- HB 3265, section 6, currently pending before the Oregon State Legislature, would expand the prohibition on civil arrests to prohibit the civil arrest of an individual who, in good faith, is attending a court proceeding in which the individual is a party or potential witness, or family or household member of a party or potential witness, while going to, remaining at or returning from the court proceeding, unless the arrest is supported by a judicial warrant or judicial order that authorizes the arrest.
- If HB 3265 becomes law, the committee should consider repeal of UTCR 3.190, given that UTCRs may not conflict with or duplicate statutes.

PROPOSED AMENDMENT

3.190 CIVIL ARRESTS

- (1) No person may subject an individual to civil arrest without a judicial warrant or judicial order when the individual is in a courthouse [or]{,} within the environs of a courthouse{, **or while traveling to or from a courthouse for the purpose of participating in a judicial proceeding, accessing courthouse services, or conducting any other business with the court**}.
- (2) “Courthouse” means any building or space used by a circuit court of this state.
- (3) “Environs of a courthouse” means the vicinity around a courthouse, including all public entryways, driveways, sidewalks, and parking areas intended to serve a courthouse.

3. 4.060 – MOTION TO SUPPRESS EVIDENCE

PROPOSAL

Amend section (4) to state that the court should grant a party additional time for reply if citations to authorities are not provided by opposing counsel prior to the hearing on the motion to suppress. **See related items A.4 and A.5.**

ACTION TAKEN

A motion was made to change the preliminary recommendation of disapproval to a recommendation of approval. The motion failed by a vote of 3-10. Therefore, the committee’s October 2, 2020, preliminary recommendation of disapproval became the committee’s final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Danny Lang, Sutherlin Attorney, on August 26, 2019.

At the October 18, 2019, meeting, the proponent stated:

- If the State is going to rely on legal authority in its opposition to the motion to suppress, then the prosecutor should file written points and authorities and serve them on the defendant;
- In his experience, the prosecution often appears at oral argument with specific appellate opinions in hand;
- The defense should not be blindsided at the hearing;
- This is a due process, effective counsel, and fairness issue; and
- If the prosecution knows what precedent it will rely on, it should disclose that legal authority, similar to the reciprocal discovery requirement.

At the October 18, 2019, meeting, the committee discussed:

- The desire of judges to be presented with the proper cases at the hearing so they can make the correct ruling;
- Parties occasionally find cases at the last minute;
- Both sides are under significant caseload and time pressures and a 7-day requirement may not be feasible;
- Judges can address due process issues by giving the defense extra time to research and reply to the State's response, even if it arises during the hearing;
- Not all judges will give the defendant extra time to reply to the prosecution's response to the motion;
- This proposal may not be workable considering the Court of Appeals' opinion in *State v. Oxford*, 287 Or App 580 (2017);
- Often the motion to suppress does not give the prosecution sufficient information to direct the response;
- The general difficulty in meeting the UTCR 4.010 time requirements;
- Often the issue does not get narrowed until the hearing, sometimes during examination of the officer; and
- A boilerplate response from the prosecution would not be helpful to the judge or the defense.

At the October 18, 2019, UTCR meeting, the committee formed a workgroup to consider amendments to the rules governing motions to suppress and to address the issue raised by proponent. Following the fall UTCR meeting, the workgroup met and developed the following three recommendations:

- Amend UTCR 4.060(1)(b) to codify *Oxford* and to clarify the requirements for a motion to suppress where the evidence sought to be suppressed was obtained without a warrant;
- Amend UTCR 4.010 and 4.060(2)(a) to allow SLR to designate alternate timelines for filing the motion to suppress and response, as the current timelines are not widely followed or enforced; and
- Amend UTCR 4.060(4) to allow the defense to request additional time to reply to the State's citations to legal authority that are not provided in a written response prior to the hearing.

These recommendations are reflected in the text of the proposed amendment, below, and in related items A.4 and A.5.

At the April 3, 2020, meeting, the committee discussed whether:

- A request for additional time to reply should be automatically granted by the judge if the state relies on citations that were not disclosed to the defense in a written response prior to the hearing;
- UTCR 4.060(4) should be amended to allow either party to request additional time to reply if the opposing party relies on citations that were not disclosed prior to the hearing;
- An automatic grant of additional time to reply would encourage late filing of the motion to suppress;
- The proposed rule will continue to result in long, overbroad and general (*Oxford*) responses to motions;
- The rule should require the prosecution to notify the defendant at the time of arraignment that the prosecution will be relying on evidence obtained from a warrantless search (similar to N.Y. Crim. Proc. Law § 710.30);
- RPC 3.3 (candor to the tribunal) and RPC 3.4 (fairness to opposing party and counsel) require parties to submit a written response containing citations to legal authorities to the court and opposing counsel in advance of the hearing;
- The 1991 commentary to the rule should be deleted;
- The rule should be amended to require a written response to be filed and served 72 hours before the hearing;
- The amendment should require the judge to grant additional time to reply, absent a showing of good cause that the additional time should not be granted.

No motion was made to change the committee's preliminary recommendation of disapproval.

The committee asked the workgroup to continue meeting and to reconsider the proposed recommendations, using the committee's discussion as a starting point for revisions to the proposals.

At the October 2, 2020, meeting, the Motion to Suppress workgroup presented revised recommendations for amendment of UTCR 4.010 and 4.060. The revised workgroup recommendations for amendment of UTCR 4.060 differed in a few respects from the proposed amendments presented at the April 3, 2020, meeting. The revised proposal:

- Applies reciprocally to both parties, so that either the prosecution or defense may request additional time to respond to authorities that were not provided in a written motion or response prior to the hearing;
- States that the court "should" grant a reasonable request for additional time to reply, after a showing of good cause, instead of "may;" and
- Deletes the 1991 commentary following the rule.

At the October 2, 2020, meeting, the committee discussed whether:

- Timelines for filing the motion and response can be enforced;
- The prosecution should receive additional time to file the response if defense counsel does not file the motion within the time provided by UTCR 4.010, or SLR adopted pursuant to the proposed amendment;
- The court already has inherent authority to grant additional time to parties to reply to authorities that were not disclosed in either the written motion or response;
- The rule should be modified to require the court to grant a party additional time to reply instead of stating that the court “should” reply;
- It is internally inconsistent that a court could find good cause to allow additional time to reply and still not grant the additional time;
- Allowing parties to request additional time to reply may result in trial delays.

At the March 5, 2021, committee meeting, the committee considered public comment from the proponent requesting reconsideration of the proposed amendment to UTCR 4.060(4) and proposing an alternative amendment.

The proponent noted that:

- Pre-hearing disclosure of authorities is helpful to the court, as well as to the parties;
- The UTCR Committee, and the workgroup, worked hard in an attempt to receive consensus wording for an amendment;
- The committee should consider an alternative amendment to 4.060(4), which states that: “Upon a showing of good cause, the court must provide appropriate relief to the extent the court finds reasonably justified upon due consideration of the status of the case.”

The committee:

- Noted that the court already has inherent authority to grant additional time to parties to reply to authorities that were not disclosed in either the written motion or response;
- Did not make a motion to adopt the proponent’s alternative amendment or to change the preliminary recommendation of disapproval.

The proposed amendment to 4.060(4), as modified by the committee at the October 2, 2020, meeting, is shown below.

PROPOSED AMENDMENT

4.060 MOTION TO SUPPRESS EVIDENCE

(1) * * *

* * * * *

- (4) Failure to file a written response shall not preclude a hearing on the merits. **{However, if either party relies on authorities that were not included in**

a written motion or response, if good cause is found the court should grant a request for a reasonable opportunity to reply.}

[1991 Commentary:

The Committee proposes these amendments to clarify its intent in originally adopting this rule that a written response not be required.]

4. 4.120 – TIME FOR FILING CITATIONS

PROPOSAL

Create a new rule requiring a citation to be filed at least 72 hours before the time set for appearance on the citation or information, and excuse non-appearance of the defendant if the citation or information is not timely filed.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Danny Lang, Sutherlin attorney, on June 25, 2020. The proponent explained that in his experience, some criminal defendants appear in court on the initial appearance date on their citation, only to find out that the citation has not been filed with the court. If the District Attorney's office files the citation after the date set for initial appearance, an amended citation is mailed to the defendant and the defendant is required to travel to court a second time. This could cause the defendant to experience unnecessary wage losses, childcare costs, transportation and travel costs, and other inconveniences. The proponent submitted a concept that would require the District Attorney to file a citation at least 72 hours prior to the time set for appearance. The proponent proposed that a code-a-phone system be made available so that the defendant could call the court within that time period to determine whether an appearance is required. If the citation is not filed more than 72 hours prior to the time set for appearance, the proponent's concept would excuse non-appearance of the defendant.

At the October 2, 2020, meeting, the committee discussed:

- Whether this proposal could be adopted by rule, or whether it requires a statutory change;
- Whether a workgroup should be formed to consider alternate solutions;
- Whether the concept could have the unintended consequence of allowing the District Attorney less time to investigate the citation before deciding whether to file it;
- Whether the concept would be an unfunded mandate on District Attorney's offices;
- The issue appears to be infrequent, when compared to the large volume of citations filed; and

- Whether the workgroup would be constrained to approval or disapproval of the proponent's concept.

At the March 5, 2021, meeting, the committee considered the workgroup report. The committee discussed the workgroup's findings, which included:

- A recommendation that UTCR 4.120, as outlined conceptually by the proponent, not be adopted at this time;
- The Chief Justice's Criminal Justice Advisory Counsel, Remote Hearings Workgroup, should consider whether to recommend a statutory amendment to ORS 133.060, 133.076 or other statutes to ensure that a criminal defendant is not required to appear at the courthouse when the criminal citation or information is not filed prior to the time set for appearance, and to ensure that the defendant is not subject to citation for failure to appear in that scenario.
- The current system does not make good use of technology, and may produce waste and pollution from unnecessary travel and lost time and income from work, family, or other obligations, and contributes to general mistrust and ill will toward government and the courts;
- District Attorneys and their staff have large caseloads, and although efforts are made to file criminal citations in advance, some citations require more research or investigation, and DAs may need more resources to meet the proposed filing deadline;
- Courts may also need additional resources to create the proposed notification system;
- Without a statute requiring the DA to file a citation or information 72 hours in advance of the time set for appearance, it would be inappropriate for the court, as a matter of rule, to excuse a defendant's non-appearance on that basis.

No motion was made to change the committee's preliminary recommendation of disapproval.

PROPOSED NEW RULE

The proponent did not submit specific wording for the new rule.

5. 5.140 – OREGON DISCOVERY IN FOREIGN PROCEEDINGS

PROPOSAL

Amend to clarify filing requirements for foreign subpoenas.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Gabe Schomus, Portland process server, on July 21, 2020. Mr. Schomus was concerned that some courts require conventional filing of a request for issuance of foreign subpoena, while others require electronic filing. He also noted that some courts respond to a request within hours, while others may take up to two weeks. Mr. Schomus did not submit specific wording for amendment of the rule. Without more information, the committee determined that it would be unable to recommend adoption of an amendment to the rule.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

6. **8.010 – ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT**

PROPOSAL

Amend to allow the Uniform Support Declaration (USD) to be submitted as an exhibit instead of filed with the court.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by David Bean, Portland attorney, on June 9, 2020. Mr. Bean submitted a written proposal indicating that the rule should be amended to allow the USD, and attachments to the USD, to be submitted as an exhibit rather than filed with the court, to protect privacy of financial and medical information.

The committee discussed the following:

- Any proposal regarding filing of the USD should be developed in conjunction with the State Family Law Advisory Committee (SFLAC), and the OJD Law & Policy Workgroup (LWPG);
- The committee previously considered a similar proposal in 2010, which was disapproved; and
- Any proposal should consider whether amendments to other rules in UTCR Chapter 8 are needed.

The committee formed a workgroup to further consider this proposal, and to develop recommended wording for amendment of 8.010, or other rules, in consultation with SFLAC.

At the March 5, 2021, meeting, the committee considered the report submitted by the workgroup. The workgroup report:

- Recommended against adopting amendments to UTCR 8.010, or the remainder of UTCR chapter 8, at this time;

- Recommended that OJD explore Oregon eCourt system functionality that would permit limiting access to USDs or, alternatively, explore possible bases for treating the USD as a confidential document as some of the information contained in the USD is personal or sensitive;
- Noted that some circuit courts do not have a hearing process, and would have no means for parties to submit USDs for certain proceedings that require one;
- Noted that most family law cases involve self-represented parties, and the distinctions between “filing” and “submitting” an exhibit can be difficult to understand and confusion about exhibits can prompt hearing delays;
- Noted that information in the USD can provide a factual or legal basis for future modifications, and therefore should be a part of the official case record; and
- Noted that DOJ’s Child Support Division uses the USD for review in administrative decisions and needs access to USDs from the case file documents.

No motion was made to change the committee’s preliminary recommendation of disapproval.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

7. 21.080 – ELECTRONIC FILING AND ELECTRONIC FILING DEADLINES

PROPOSAL

Review section (5) for conflict with ORS 21.100, considering rulings by the Appellate Commissioner and the Court of Appeals in *Otnes v. PCC Structural, Inc.*, A167525.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee’s October 2, 2020, preliminary recommendation of disapproval became the committee’s final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Janet Schroer, UTCR Committee Chair, on October 4, 2018. The Oregon Supreme Court allowed the petition for review on January 16, 2020. At the time of the March 5, 2021, committee meeting, the Supreme Court had not yet issued a ruling in the case. Following the UTCR meeting, the Supreme Court issued an opinion in *Otnes v. PCC Structural*, 367 Or 787, on April 8, 2021. This item will be carried over to the next agenda so that the committee may consider whether an amendment to UTCR 21.080 is necessary.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

8. 21.100 – ELECTRONIC SERVICE

PROPOSAL

Remove the requirement that a filer enter their service contact information at the time of preparing the filer's first electronic filing in each action.

ACTION TAKEN

No public comments were received. No motion was made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 2, 2020, preliminary recommendation of disapproval became the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Sam Dupree, OJD Assistant General Counsel, on July 24, 2020. The proponent discussed that:

- Currently, UTCR 21.100 requires a filer to submit contact information into File and Serve at the outset of each case;
- This has been a source of frustration for bar members, and could be a source of potential PLF claims if an attorney does not realize that contact information must be added to each case;
- OJD has conducted education and outreach on the existing system requirements, but reported problems persist;
- PACER, the federal courts' electronic filing system, already automates the addition of a filer's contact information;
- OJD is working with Tyler Technologies (the developer of File & Serve) to automate the process to automatically add an existing filer's contact information to each case;
- Tyler Technologies' current method would add the filer to File & Serve as an "Other Service Contact" which could be confusing as the contact information would not be associated with a particular party label;
- The proponent plans to continue working with Tyler to develop a better process for automatically adding an existing filer's contact information.

At the March 5, 2021, meeting, the committee discussed that Tyler Technologies has not yet developed a process that would automatically add an existing filer's contact information to each case. A proposed amendment will be considered by the committee once a solution is available.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

C. OUT-OF-CYCLE AMENDMENTS

1. 3.170 – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

PROPOSAL

Amended section (9) to conform the rule to Oregon Laws 2020, chapter 14, (2020 1st Special Session House Bill 4214).

ACTION TAKEN

This amendment was adopted out-of-cycle by the Oregon Supreme Court in [SCO 21-008](#), effective March 11, 2021. Pursuant to the order and UTCR 1.020(5), this rule will be posted for public comment and placed on the agenda for the October 15, 2021, meeting. This amendment was not discussed by the committee at the March 5, 2021 meeting.

EXPLANATION

HB 4214 (2020 1st Special Session) created the Oregon Indian Child Welfare Act (ORICWA). HB 4214 allows changes the status of an Indian tribe in a child welfare proceeding. Prior to HB 4214, an Indian tribe was required to intervene in a child welfare proceeding in order to become a party to the case. Under HB 4214, the Indian tribe becomes a party to the case when there is reason to know that the child involved in the proceeding is an Indian child.

The amendments to UTCR 3.170(9):

- Adds citations to ORICWA to the rule where appropriate;
- Removes the affidavit requirement; and
- Removes references to the tribe as an intervenor.

Because the rule was amended out-of-cycle, this amendment will be sent out for public comment and any comments received will be reviewed by the committee at the fall meeting on October 15, 2021.

AMENDMENT

3.170 ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

(1) * * *

* * * * *

- (9) An applicant is not required to associate with local counsel pursuant to subsection (1)(c) of this section or pay the fee established by subsection (6) of this section if the applicant establishes to the satisfaction of the Bar that:
- (a) The applicant seeks to appear in an Oregon court for the limited purpose of participating in a child custody proceeding as defined by 25 USC §1903, pursuant to the Indian Child Welfare Act of 1978, 25 USC §1901 et seq. **{ and the Oregon Indian Child Welfare Act. Oregon Laws 2020, chapter 14 (2020 1st Special Session House Bill 4214) }**;
 - (b) The applicant represents an Indian tribe, parent, or Indian custodian, as defined by 25 USC §1903 **{ and Oregon Laws 2020, chapter 14, section 2 (2020 1st Special Session House Bill 4214) }**; and
 - (c) **{An Indian tribe as defined in 25 USC §1903 or Oregon Laws 2020, chapter 14, section 2 (2020 1st Special Session House Bill 4214) has affirmed the child's eligibility for membership or citizenship in the tribe.}** *[One of the following:*

- (i) *If the applicant represents an Indian tribe, the Indian child's tribe has executed an affidavit asserting the tribe's intent to intervene and participate in the state court proceeding and affirming the child's membership or eligibility of membership under tribal law; or*
- (ii) *If the applicant represents a parent or Indian custodian, the tribe has affirmed the child's membership or eligibility of membership under tribal law.]*

NOTE: UTCR 3.170 is adopted by the Oregon Supreme Court under ORS 9.241 and may be modified only by order of that Court.

2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

PROPOSAL

Amended section (3) to update citations to statutes governing child support matters.

ACTION TAKEN

This amendment was adopted out-of-cycle by Chief Justice Order [\(CJO\) 20-051](#), effective December 4, 2020. No public comment was received. No action was needed nor taken by the committee.

EXPLANATION

After the committee meeting held on October 2, 2020, Michael Ritchey, Senior Assistant Attorney General, Oregon Child Support Program, brought the need for an amendment to UTCR 5.100(3)(e) to the attention of the UTCR Reporter. Following the 2019 legislative session, legislative counsel renumbered former ORS ch. 416 (regarding child support matters) to ORS ch. 25. As a result, citations to former ORS ch. 416 in UTCR 5.100(3)(e) were rendered outdated and incorrect, causing the potential for confusion for courts, attorneys, and litigants involved in child support cases. The out-of-cycle amendment updated the citations in UTCR 5.100(3)(e), effective December 4, 2020.

AMENDMENT

5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

(1) * * *

* * * * *

(3) The requirements of subsection (1) of this rule do not apply to:

- (a) A proposed order or judgment presented in open court with the parties present;
- (b) A proposed order or judgment for which service is not required by statute, rule, or otherwise;
- (c) A proposed judgment subject to UTCR 10.090;

- (d) An uncontested probate or protective proceeding, or a petition for appointment of a temporary fiduciary under ORS 125.605(2); and
- (e) Matters certified to the court under ORS [416.422]{**25.515**}, ORS [416.430]{**25.550**}, ORS [416.435]{**25.552**}, and ORS [416.448]{**25.531**}, unless the proposed order or judgment is ready for judicial signature without hearing.

(4) * * *

* * * * *

3. 11.130 – NEW DEPENDENCY PETITION ALLEGATIONS, WHEN CHILD IS A WARD

PROPOSAL

Adopted a new rule governing additional dependency allegations concerning an existing ward. **See related item C.4.**

ACTION TAKEN

This rule was adopted out-of-cycle in [CJO 20-040](#), effective January 1, 2021. No public comment was received. No action was needed nor taken by the committee.

EXPLANATION

This proposal, and related item C.4, were submitted by Megan Hassen, OJD Senior Juvenile Law Analyst, and Hon. Norman Hill, Polk County Circuit Court Judge, on behalf of the Juvenile Case Numbering Workgroup, on February 11, 2020.

The Juvenile Case Numbering Workgroup was appointed by State Court Administrator Nancy Cozine in 2018 to consider solutions to juvenile case numbering issues in Odyssey. At the committee meeting on April 3, 2020, the proponents explained that:

- In juvenile dependency cases, allegations against the parent are reduced to a judgment of the jurisdictional basis for wardship.
- In other civil case types, a judgment document concludes the dispute at issue in the case, but in a juvenile dependency case, the jurisdictional judgment is a foundational document that guides the case.
- If new allegations of abuse are alleged, those allegations currently must be brought in a new petition, with a new case number.
- Because of this process, one family may have multiple case numbers per child, resulting in confusion for parties, attorneys, court staff, and the judge.
- Multiple case numbers make data entry, filing, and finding documents in the electronic case files more complicated and time consuming.
- The proposed rule allows parties to file new allegations in the existing case number, with rules regarding numbering the petition and the additional jurisdictional judgments.

- This rule, the related rule, and the court business process are still being fine-tuned by the workgroup.

At the committee meeting on April 3, 2020, the committee discussed:

- Whether the proposed rule would make it difficult for courts to use existing judgment form templates.
- Number matching issues.
- Applicability to dispositional hearings.
- Impact on fill-in-the-blank judgment forms.
- Whether the rule should be expanded to encompass numbering of subsequent dispositional judgments.

At the October 2, 2020, committee meeting, the proponent updated the committee on the status of proposed UTCR 11.130, and related new rule, UTCR 11.140, and modifications made by the Juvenile Case Numbering Workgroup following the spring meeting, to clarify numbering of subsequent petitions and to identify unresolved and pending allegations from a previous petition. The committee discussed the sources of input received by the workgroup. See related item C.4.

NEW RULE

A new rule contains all new wording so there is no use of *[brackets and italics]* or **{braces, underline, and bold}**.

11.130 NEW DEPENDENCY PETITION ALLEGATIONS, WHEN CHILD IS A WARD

- (1) When a child is already a ward of the court under ORS 419B.100 and ORS 419B.328, any new petition containing allegations under ORS 419B.100 must be filed under the ward’s existing dependency case number, unless otherwise permitted under ORS 419B.118.
- (2) If there is more than one dependency case number for the ward for the current wardship episode, a petition filed under subsection (1) must be filed under the first case number established for the ward during that wardship episode.
- (3) In addition to the requirements of ORS 419B.809, ORS 419B.863, and ORS 419B.866, a petition filed under an existing wardship must:
 - (a) Include in the document title the sequential number of the petition before the word “PETITION,” e.g., “SECOND PETITION;” and
 - (b) Include in the body of the petition:
 - (i) The date of the initial judgment establishing jurisdiction over the ward during the current wardship episode;
 - (ii) The existing bases of jurisdiction and the date each basis was established in a judgment of jurisdiction and whether each allegation was admitted or otherwise proved; and

- (iii) Any allegation that remains pending from a previous petition and the title of that petition.
- (c) An allegation filed in an existing wardship petition must be numbered consecutively to allegations listed in the previous petition.
- (4) A copy of any new petition containing allegations under ORS 419B.100 filed during an existing wardship must be served with a summons in accordance with ORS 419B.815.

4. 11.140 – DEPENDENCY JUDGMENTS OF JURISDICTION AND DISPOSITION

PROPOSAL

Adopted a new rule governing dependency judgments of jurisdiction. **See related item C.3.**

ACTION TAKEN

Following the UTCR Committee meeting held on October 2, 2020, the proposed amendment was adopted out-of-cycle in [CJO 20-040](#), effective January 1, 2021. No public comment was received. No action was needed nor taken by the committee.

EXPLANATION

See explanation for related item C.3.

NEW RULE

A new rule contains all new wording so there is no use of *[brackets and italics]* or **{braces, underline, and bold}**.

11.140 DEPENDENCY JUDGMENTS OF JURISDICTION AND DISPOSITION

- (1) A judgment of jurisdiction entered under ORS chapter 419B must state how each allegation in the petition(s) under consideration is resolved: whether it is admitted, proved, dismissed or pending.
- (2) A judgment of jurisdiction entered under ORS chapter 419B that is based on a post-jurisdiction dependency petition filed during an existing wardship must include:
 - (a) In the document title, in parentheses, the title of the petition or petitions it is resolving, e.g., JUDGMENT OF JURISDICTION (SECOND PETITION);
 - (b) The bases of jurisdiction previously established during the existing wardship that have not been dismissed;
 - (c) The date each basis of jurisdiction was established in a judgment of jurisdiction; and
 - (d) The date of the first judgment establishing jurisdiction over the ward during the current wardship episode.

- (3) A separately entered judgment of disposition that is based on a post-jurisdiction dependency petition filed during an existing wardship must include the title of the petition it is based on in parentheses in the document title.

5. 21.010 – DEFINITIONS

PROPOSAL

Added new section (8), defining electronic forms system. **See related item C.6.**

ACTION TAKEN

This amendment was adopted out-of-cycle by [CJO 20-031](#), effective September 1, 2020. No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

New subsection (8) defines “electronic forms system” (commonly referred to as “Guide & File”). The electronic forms system is referenced in amended 21.070(3)(m). The committee did not receive any public comments on the amendment.

AMENDMENT

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) * * *

* * * * *

{(8) “Electronic forms system” means the system provided by the Oregon Judicial Department for the interactive and electronic preparation and filing of completed form documents through the electronic filing system. A filer may access the system through the Oregon Judicial Department’s website (<https://www.courts.oregon.gov/services/online/Pages/iforms.aspx>).}

6. 21.070 – SPECIAL FILING REQUIREMENTS

PROPOSAL

Amended section (3)(m) to allow *ex parte* abuse petitions to be electronically filed. **See related item C.5.**

ACTION TAKEN

This amendment was adopted out-of-cycle by [CJO 20-031](#), effective September 1, 2020. No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

Amended 21.070(3)(m) creates an exception to the general rule that a judicial district may require conventional filing of any stipulated or *ex parte* matter by

including that matter in SLR 2.501. Amended (3)(m) requires judicial districts to allow submission of documents under the Family Abuse Prevention Act (FAPA), the Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA), and the sexual abuse restraining order statutes (ORS 163.760 to 163.777) through the electronic forms system when those forms are available in that system. The electronic forms system is designed for use by self-represented litigants and provides an interactive question and answer format that allows a petitioner to file documents without the assistance of an attorney. Filings with the following codes are directed to the “quick review queue:”

- Petition – Abuse Prevention (PTAB)
- Motion – Less Restrictive Terms (MOLE)
- Petition – Renewal Abuse Prevention (PTRP) (New)
- Motion – Dismissal Protective Order (MODO) (New)
- Request – Hearing Protective Order (RQHP) (New)
- Motion – Modify Protective Order (MOMP) (New)

If the document is submitted through Guide & File, it will automatically appear in the court’s quick review queue. If the document is submitted directly through File & Serve, the filer will need to be sure to select one of the above codes to direct the document to the quick review queue upon filing. Prior to the availability of the “quick review queue,” courts disallowed electronic filing of abuse protection documents because there was no way to flag these filings for immediate review, and the abuse protection statutes require the court to hold an *ex parte* hearing on the day the petition is filed or the next judicial day. The quick review queue, and the availability of the electronic forms system for abuse protection documents, are intended to facilitate electronic submission of abuse protection documents for self-represented litigants statewide. The committee did not receive any public comments on the amendment.

AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) * * *

* * * * *

(m) Any stipulated or *ex parte* matter listed in SLR 2.501 in a Judicial District’s Supplementary Local Rules{ **except that documents submitted under the Family Abuse Prevention Act, the Elderly Persons and Persons with Disabilities Abuse Prevention Act, and the sexual abuse restraining order statutes (ORS 163.760 to**

163.777) may be electronically submitted through the electronic forms system, when those forms are available in that system}.

(n) * * *

* * * * *

7. 21.070 – SPECIAL FILING REQUIREMENTS

PROPOSAL

Updated the citation to ORCP 55 H(2)(c) in subsection (3)(j) to ORCP 55 D(8)(a).

ACTION TAKEN

After the UTCR Committee meeting held on October 2, 2020, the proposed amendment was adopted out-of-cycle in [CJO 20-051](#), effective December 4, 2020. No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

This proposal was submitted by Gabe Schomus, Portland process server. UTCR 21.070(3)(j) requires conventional filing of confidential health information delivered to the court in response to a subpoena. Effective December 8, 2018, the Council on Court Procedures renumbered ORCP 55H(2)(c) to ORCP 55 D(8)(a).

At the October 2, 2020, UTCR Committee meeting, the committee recommended approval of the proposed amendment updating 21.070(3)(j) to reflect the new citation. Chief Justice Walters subsequently approved the amendment out-of-cycle, in CJO 20-051, effective December 4, 2020.

AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) * * *

* * * * *

(j) A document delivered to the court under ORCP 55 [(H)(2)(c)] **D(8)(a)**.

(k) * * *

* * * * *

(4) * * *

* * * * *

8. 21.070 – SPECIAL FILING REQUIREMENTS

PROPOSAL

Updated the citation in subsection (3)(r) from Oregon Laws 2019, chapter 472, section 1 (2019 Senate Bill 962), to ORS 147.620.

ACTION TAKEN

After the UTCR Committee meeting held on October 2, 2020, the proposed amendment was adopted out-of-cycle in [CJO 20-051](#), effective December 4, 2020. No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

This proposal was submitted by Bruce Miller, former UTCR Reporter, on June 12, 2020. The proposal updates the citation in 21.070(3)(r), which currently refers to Oregon Laws 2019, chapter 472, section 1 (2019 Senate Bill 962). Following the 2019 legislative session, Oregon Laws 2019, chapter 472, section 1 was codified at ORS 147.620.

At the October 2, 2020, UTCR Committee meeting, the committee recommended approval of the proposed amendment updating the citation. Chief Justice Walters subsequently approved the amendment out-of-cycle, in CJO 20-051, effective December 4, 2020.

AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) * * *

* * * * *

(r) A victim's request for a United States Citizenship and Immigration Services certification, and related documents, authorized by [*Oregon Laws 2019, chapter 472, section 1 (2019 Senate Bill 962)*] **ORS 147.620**.

(4) * * *

* * * * *

9. 21.090 – ELECTRONIC SIGNATURES

PROPOSAL

Amended section (4) to allow electronic notary signatures.

ACTION TAKEN

No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

HB 4212 (2020 1st Special Session) authorized the Secretary of State’s office to create a Remote Online Notarization (RON) pilot program. HB 4212, and the Secretary of State’s administrative rules governing notaries, allow a notary to use an electronic signature. (OAR 160-100-0030). The amendment to 21.090(4) removes the “printed” signature requirement for notarial signatures, allowing filers to file electronically notarized documents with the court. The amendment allows filers to obtain notarial signatures in a manner that is consistent with social distancing requirements and continues the general trend toward use of electronic signatures.

The amended rule also removes the “imaged” requirement. This amendment clarifies that an electronic signature does not need to be imaged, although it applies regardless of the type of notary signature that is applied. In addition, feedback received from circuit courts indicated that some filers were attempting to electronically file photos of documents. Removing the “imaged” requirement will also ensure that filers understand that all electronically filed documents must be in PDF format, text searchable, and must adequately capture the contents of the document.

The committee received one public comment urging that the rule should be compatible with the Electronic Signatures in Global and National Commerce (“E-SIGN”) act. See 15 USC § 7001 *et seq.* The public comment did not indicate whether the commenter believed the amended rule was incompatible with the E-SIGN act, or in what respect the rule should be amended, if any.

AMENDMENT

21.090 ELECTRONIC SIGNATURES

(1) * * *

* * * * *

(4) When a document to be electronically filed [*requires*]{**contains**} the signature of a notary public, the [*notary public shall sign a printed form of the document. The printed*] document [*bearing the original signatures*] must be [*imaged and*] electronically filed in a format that accurately reproduces the [*original*] signatures and contents of the document.

(5) * * *

* * * * *

10. 21.090 – ELECTRONIC SIGNATURES

PROPOSAL

Amended to allow electronic signatures on declarations. **See related item B.1 and D.1.**

ACTION TAKEN

No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

On August 31, 2018, Salem Attorney Kristin Lamont submitted a proposal to allow electronic signatures on declarations. The concept was studied by a workgroup after discussion at the fall 2018 UTCR Committee meeting. At the UTCR Committee meeting on October 18, 2019, the committee preliminarily recommended changes to the proposed rule recommended by the workgroup that tie the rule to ORS chapter 84, address the use of wet signatures, and set different retention time for electronic and wet signatures. At the fall meeting on October 18, 2019, the committee noted that:

- The rule allows the use of electronic signature software that includes an audit trail;
- An electronic filer will need to remove the audit trail when submitting documents for filing because the electronic filing system will not accept them;
- An opposing party can challenge an electronic signature;
- Use of electronic signatures is voluntary, not mandatory; and
- The Oregon Law Commission is studying a proposal to allow notaries to notarize documents remotely, so this rule may require future amendment.

Prior to the UTCR Committee meeting on April 3, 2020, this rule was adopted out-of-cycle by [CJO 20-008](#), effective March 27, 2020. Chief Justice Walters adopted this rule out-of-cycle to assist attorneys and litigants in maintaining social distance during the COVID-19 pandemic.

At the meeting on October 2, 2020, the committee received several public comments requesting that the rule be revised for consistency with generally understood definitions of “electronic” signature and “digital” signature. The committee noted that there are multiple rules within the Uniform Trial Court Rules that relate to requirements for signatures on electronically submitted and conventionally filed documents, and that any attempt to define “digital” and “electronic” signatures should apply across the board. The committee also received a public comment stating concerns with the potential for fraudulent electronic signatures and identity theft.

At the spring meeting on March 5, 2021, the committee considered a proposal to further amend UTCR 2.010 and 21.090 and to add definitions of “authenticated signature,” “electronic signature,” and “original signature” to UTCR 1.110. The committee discussed that:

- Electronic signature is a broad term that includes digital signatures, which are a specific type of electronic signature that utilizes a mathematical algorithm to generate two “keys” one public and one private;

- UTCR 21.090 is not intended to require a digital signature, in part because most commercially available electronic signature do not meet the “digital signature” requirements;
- Many available electronic signature products do meet the “security procedure” requirement in UTCR 21.090(6);
- The UTCR could be amended to define signature terms and consistently use those terms throughout the body of rules;
- The rules should not be amended without additional time for public comment and input.

Proposals to amend UTCR 1.110 and to further amend UTCR 2.010 and 21.090 will be carried over to the agenda for the October 15, 2021, committee meeting.

AMENDMENT

21.090 ELECTRONIC SIGNATURES

(1) * * *

* * * * *

- (4) *[Except as provided in section (5) of this section, w}{**W**}hen a document to be electronically filed requires [a signature under penalty of perjury, or] the signature of a notary public, the [declarant or]notary public shall sign a printed form of the document. The printed document bearing the original signatures must be imaged and electronically filed in a format that accurately reproduces the original signatures and contents of the document. [The original document containing the original signatures and content must be retained as required in UTCR 21.120.]*
- (5) When the filer is the same person as the declarant named in an electronically filed document for purposes of ORCP 1 E, the filer must include in the declaration an electronic symbol intended to substitute for a signature, such as a scan of the filer’s handwritten signature or a signature block that includes the typed name of the filer preceded by an “s/” in the space where the signature would otherwise appear.

Example of a signature block with “s/”:
s/ John Q. Attorney
JOHN Q. ATTORNEY

{(6) When the filer is not the same person as the declarant named in an electronically filed document for purposes of ORCP 1 E, the document may be signed using either:

- (a) Electronic signature software that includes a security procedure designed to verify that an electronic signature is that of a specific person. A security procedure is sufficient if it complies with the definition of “security procedure” in ORS ch. 84; or**
- (b) An original signature on a printed document. The printed document bearing the original signature must be imaged and**

electronically filed in a format that accurately reproduces the original signature and contents of the document.

(7) When a filer electronically files a document described in subsection (6) of this rule, the filer certifies by filing that, to the best of the filer's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer.

(8) Unless the court orders otherwise, if a filer electronically files:

(a) A declaration that contains an electronic signature of a person other than the filer, the filer must retain the electronic document until entry of a general judgment or other judgment or order that conclusively disposes of the action.

(b) An image of a document that contains the original signature of a person other than the filer, the filer must retain the document in the filer's possession in its original paper form for no less than 30 days.

11. 21.120 – RETENTION OF DOCUMENTS BY FILERS AND CERTIFICATION OF ORIGINAL SIGNATURES

PROPOSAL

Repealed to conform to the amendments to UTCR 21.090.

ACTION TAKEN

No public comment was received. No action by the committee was needed nor taken.

EXPLANATION

Prior to the UTCR Committee meeting on April 3, 2020, this rule was repealed out-of-cycle by [CJO 20-008](#), effective March 27, 2020. Repeal of the rule was preliminarily recommended for approval by the UTCR Committee at the fall meeting on October 18, 2019. The Chief Justice repealed the rule out-of-cycle to assist litigants in maintaining social distance during the COVID-19 pandemic. The committee did not receive any public comments.

REPEALED RULE

21.120 RETENTION OF DOCUMENTS BY FILERS AND CERTIFICATION OF ORIGINAL SIGNATURES **{(Repealed)}**

[(1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer must retain the document in the filer's possession in its original paper form for no less than 30 days.]

[(2) When a filer electronically files a document described in section (1) of this rule, the filer certifies by filing that, to the best of the filer's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer.]

{REPORTER's NOTE: UTCR 21.120 was repealed effective March 27, 2020. See UTCR 21.090 for retention and certification requirements.}

D. OTHER

1. 1.110 – DEFINITIONS

PROPOSAL

Amend to add definitions of “authenticated signature,” “electronic signature,” and “original signature.” **See related items B.1 and C.10.**

ACTION TAKEN

No action was needed nor taken by the committee.

EXPLANATION

At the spring meeting on March 5, 2021, the committee considered a proposal to further amend UTCR 2.010 and 21.090 and to add definitions of “authenticated signature,” “electronic signature,” and “original signature” to UTCR 1.110. The amendments to UTCR 1.110 were considered by the committee for the first time at the spring meeting. The committee discussed that:

- Electronic signature is a broad term that includes digital signatures, which are a specific type of electronic signature that utilizes a mathematical algorithm to generate two “keys” one public and one private;
- UTCR 21.090 is not intended to require a digital signature, in part because most commercially available electronic signature do not meet the “digital signature” requirements;
- Many available electronic signature products do meet the “security procedure” requirement in UTCR 21.090(6);
- The UTCR could be amended to define signature terms and consistently use those terms throughout the body of rules;
- The rules should not be amended without additional time for public comment and input.

Proposals to amend UTCR 1.110 and to further amend UTCR 2.010 and 21.090 will be carried over to the agenda for the October 15, 2021, committee meeting.

AMENDMENT

1.110 DEFINITIONS

As used in these rules:

{(1) “Authenticated Signature” means a specific type of electronic signature created using software that includes a security procedure designed to verify that a signature is that of a specific person. A security procedure is sufficient if it complies with the definition of “security procedure” in ORS ch. 84.}

[(1)]{(2)} “Court contact information” means the following information about a person submitting a document: the person’s name, a mailing address, a

telephone number, and an email address and a facsimile transmission number, if any, sufficient to enable the court to communicate with the person and to enable any other party to the case to serve the person under UTCR 2.080(1). Court contact information can be other than the person's actual address or telephone or fax number, such as a post office box or message number, provided that the court and adverse parties can contact the person with that information.

[(2)]{(3)} "Days" mean calendar days, unless otherwise specified in these rules.

[(3)]{(4)} "Defendant" or "Respondent" means any party against whom a claim for relief is asserted.

[(4)]{(5)} "Document" means any instrument filed or submitted in any type of proceeding, including any exhibit or attachment referred to in the instrument. Depending on the context, "document" may refer to an instrument in either paper or electronic form.

{(6)} **"Electronic Signature" means an electronic symbol intended to substitute for a signature, such as a scan of a handwritten signature or a signature block that includes the typed name preceded by an "s/" in the space where the signature would otherwise appear.**

Example of a signature block with "s/":

s/ John Q. Attorney

JOHN Q. ATTORNEY

OSB # Email address

Attorney for Plaintiff Smith Corporation, Inc.}

{(7)} **"Original Signature" means a handwritten signature on a printed document.}**

[(5)]{(8)} "Party" means a litigant or the litigant's attorney.

[(6)]{(9)} "Plaintiff" or "Petitioner" means any party asserting a claim for relief, whether by way of claim, third-party claim, crossclaim, or counterclaim.

[(7)]{(10)} "Trial Court Administrator" means the court administrator, the administrative officer of the records section of the court, and where appropriate, the trial court clerk.

2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

PROPOSAL

Recommended modification of the Reporter's Note to include orders setting aside a record of arrest.

ACTION TAKEN

No public comments were received and no action was needed nor taken by the committee.

EXPLANATION

This proposal was submitted by Joshua Hunking, Corvallis attorney, on November 6, 2019. At the October 2, 2020, committee meeting, the proponent discussed:

- The desire to exempt proposed orders setting aside a record of arrest under ORS 137.225 from the requirement in 5.100(1);
- Actions to set aside a record of arrest arise under criminal law, and ORS ch 137 is a part of the criminal code;
- A motion and proposed order to set aside a conviction is always filed within an existing criminal case and is therefore clearly exempt from 5.100(1); and
- Motions and orders to set aside a record of arrest may be filed even if a criminal case does not exist, in that event, the court treats the action as a civil case, even though it arises under the criminal code.

The committee discussed whether this matter should be resolved with an amendment to 5.100(3), or whether it could be better addressed through modification of the Reporter's Note, which already exempts criminal cases from the requirement in 5.100(1). A committee member moved to recommend modification of the Reporter's Note, in lieu of amending 5.100(3) and the motion was approved by consensus.

Although a motion to amend the Reporter's Note was not necessary, as the ability to modify the Reporter's Note is within the purview of the UTCR Reporter, in this event, a motion was helpful to clarify the committee's desire to modify the Reporter's Note in lieu of preliminarily recommending amendment of 5.100(3). The UTCR Reporter agreed to modify the Reporter's Note, in the manner shown below. The modification will be effective August 1, 2021, to coincide with the effective date for the 2021 Uniform Trial Court Rules.

MODIFICATION OF REPORTER'S NOTE

5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

(1) * * *

* * * * *

REPORTER'S NOTE [(08/01/2016)]:

This rule does not apply in the following types of cases: criminal; **proposed orders setting aside a record of arrest under ORS 137.225;** contempt cases seeking punitive sanctions; juvenile under ORS chapter 419A, 419B, or 419C; or violations, parking violations, or small claims (see UTCR 1.010(3)). Nothing in this rule prohibits a court from adopting an SLR that applies this rule to matters under SLR chapters other than chapter 5.

Pursuant to UTCR 1.130, computation of Uniform Trial Court Rule time requirements is subject to ORCP 10.

3. Committee Membership

ACTION TAKEN

No action was needed nor taken by the committee.

EXPLANATION

The committee received an update on membership. Committee member Zack Mazer will complete his service on the committee on December 31, 2021. Next fall, OJD will advertise for experienced applicants to fill this position. Committee members are appointed by the Chief Justice.

4. Fall 2021 Meeting

ACTION TAKEN

No action was needed nor taken by the committee.

EXPLANATION

The fall meeting of the UTCR Committee will be held on October 15, 2021. Please submit proposed UTCR changes to the UTCR Reporter by August 31, 2021, so that they may be included in the fall meeting agenda. You may submit proposals by email or traditional mail: utcr@ojd.state.or.us or UTCR Reporter, Supreme Court Building, 1163 State Street, Salem, Oregon 97301-2563.