Rule 4-405. Juror and witness fees and expenses.

Intent:

To develop a uniform procedure for payment of juror and witness expenses.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:

(1) Fees.

(1)(A) The courts shall pay the fee established by statute for all jurors of the courts of record. The courts shall pay the fee established by statute for witnesses subpoenaed by the prosecutor or by an indigent defendant in criminal cases in the courts of record and in actions in the juvenile court. The courts shall pay no fee to a witness appearing for a hearing that was canceled or postponed with at least 24 hours' notice to the parties, excluding Saturdays, Sundays, and holidays. The parties shall notify witnesses when a hearing is canceled or postponed. Upon request, a civil witness's necessary and reasonable parking expenses shall be reimbursed by the attorney who issued the subpoena.

(1)(B) A subsequent day of attendance shall be:

(1)(B)(i) for a witness, attendance on a subsequent day of the hearing regardless of whether the hearing is continued to a contiguous business day, but only if the hearing was actually called on the first day; and

(1)(B)(ii) for a juror, attendance on a subsequent day during the juror's term of availability, as defined in Rule 4-404(3)(B), regardless of whether attendance is for the same trial.

(1)(C) A witness requesting payment shall present a subpoena on which appears the certification of the attorney general, county attorney, district

attorney or legal defender of the number of days the witness attended court, as defined in subsection (1)(B).

(2) Mileage. The courts shall reimburse the cost of travel at the rate established by statute for those jurors and witnesses to whom the court pays a fee. A witness in a criminal case or juvenile court case traveling from out of state to whom the court pays a witness fee shall be reimbursed the cost of round trip airfare or round trip travel at $.20 per mile, as determined by the court.

(3) Meals and refreshments.

(3)(A) Meals for jurors shall be provided if the case has been submitted to the jury and the jury is in the process of deliberating the verdict or if the jury is sequestered. A lunch meal may be provided to jurors impaneled to try a case if it is anticipated that the matter will not be concluded by 2:00 p.m. on the final day of trial and the trial judge finds that provision of a lunch meal will assist in expediting the conclusion of the trial.

(3)(B) A witness in a criminal case or a juvenile court case traveling from outside the county to whom the court pays a witness fee may be reimbursed for meals.

(3)(C) Payment for meals for jurors and eligible in-state witnesses shall not exceed the rates adopted by the Department of Administrative Services.

(3)(D) Refreshments may be provided to a jury during the course of trial, upon order of the judge. Payment for refreshments shall not exceed $3.00 per person per day.

(4) Lodging. Lodging for jurors shall be paid if the judge orders the jury sequestered, if the juror must travel more than 100 miles one-way from the juror's residence to the courthouse and the judge orders that lodging be paid, or if the judge orders that lodging be paid due to inclement weather. A witness

in a criminal case or juvenile court case to whom the court pays a witness fee traveling from outside the county shall be provided lodging only upon a determination by the court executive that returning to the point of origin on the date in question places a hardship upon the witness or that the reimbursement for travel for repeat appearances is greater than the cost of lodging. Unless unavailable, lodging costs shall not exceed the rates adopted by the Department of Administrative Services.

(5) Method and record of payment.

(5)(A) The payment of juror and witness fees and mileage shall be by check made payable to the individual, or the court may reimburse the county or municipal government for the payment of the fee or mileage allowance.

(5)(B) The court shall pay eligible expenses of jurors directly to the vendor. Jurors shall not be required to incur the expense and seek reimbursement. The court may pay the eligible expenses of witnesses directly to the vendor or may reimburse the witness or the county or municipal government for the expense.

(5)(C) Jurors. Jurors must present a summons for payment for the first day of service. If a juror does not present a summons, the clerk may certify that the juror was summoned. The clerk shall file the summons and shall record the attendance of jurors for payment, including subsequent days of service.

(5)(D) Witnesses in criminal cases and juvenile court cases. Witnesses in criminal cases and juvenile court cases must present a subpoena for payment. If the subpoena is issued on behalf of an indigent defendant, it shall bear the certificate of defense counsel that the witness has appeared on behalf of the defendant at state expense, regardless of the number of days for which the witness is eligible for payment. If the subpoena is issued on behalf of the prosecution, the prosecutor shall certify the number of days and the

number of miles for which the witness is eligible for payment. The clerk shall file the subpoena and record of attendance. If a witness does not present a subpoena, the clerk may record the witness' attendance and mailing address that is certified by the prosecutor or defense counsel.

(5)(E) The clerk of the court shall enter the payment due the juror or witness in the State Accounting System (FINET) within 10 calendar days after receipt of certification. The state will mail the payment to the juror or witness within 3 days. The clerk of court shall maintain both a list of undeliverable juror and witness checks and the checks. A payment is considered abandoned one year after it became payable and will be sent to the Division of Unclaimed Property pursuant to the Utah Code.

(6) Audit of records. At least once per month, the clerk of the court or a designee shall compare the jurors summoned and the witnesses subpoenaed with the FINET log of payments. Any unauthorized payment or other irregularity shall be reported to the court executive and the audit department of the Administrative Office of the Courts. The Administrative Office of the Courts shall include the audit of juror and witness payments within the scope of their regularly scheduled audits.