

Rule 7. Warrants, ~~for immediate custody of minors; grounds; execution of warrants; search warrants.~~

(a) The issuance and execution of a warrant ~~in delinquency cases~~ is governed by Title 77, Chapter 7, Arrest, ~~and by Section 78-3a-106, Section 78-3a-112, and Section 78-3a-113, and Utah Rule of Criminal Procedure 40.~~

(b) After a petition is filed, a warrant for immediate custody of a minor may be issued if the court finds from the facts set forth in an affidavit filed with the court or in the petition that there is probable cause to believe that:

(b)(1) the minor has committed an act which would be a felony if committed by an adult;

(b)(2) the minor has failed to appear after the minor or the parent, guardian or custodian has been legally served with a summons;

(b)(3) there is a substantial likelihood the minor will not respond to a summons;

(b)(4) the summons cannot be served and the minor's present whereabouts are unknown;

(b)(5) the minor seriously endangers others and immediate removal appears to be necessary for the protection of others or the public; or

(b)(6) there are reasonable grounds to believe that the minor has run away or escaped from the minor's parent, guardian or custodian.

(c) A warrant for immediate custody of a minor may be issued if the court finds from the affidavit that the minor is under the continuing jurisdiction of the court and probable cause to believe that the minor:

(c)(1) has left the custody of the person or agency vested by the court with legal custody and guardianship without permission; or

(c)(2) has violated a court order.

(d) A warrant for immediate custody shall be signed by a court and shall contain or be supported by the following:

latest 2/14/07
version
after discussion
w/ S. Cr.

Thanks -
Shana

earlier documents

(d)(1) an order that the minor be taken to a juvenile the detention or shelter facility or an adult detention facility, if appropriate, designated by the court at the address specified pending a hearing or further order of the court;

(d)(2) the name, date of birth and last known address of the minor;

(d)(3) the reasons why the minor is being taken into custody;

(d)(4) a time limitation on the execution of the warrant;

(d)(5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and

(d)(6) the date, county and court location where the warrant is being issued.

~~(d)(7) On verbal request from a probation officer or other authorized individual a warrant for custody may be issued telephonically during non-business hours or under exigent circumstances when it appears necessary for the protection of the community or the juvenile and shall be supported by an affidavit from the requesting authority the next court business day.~~

~~(e) Search warrants, with an order of immediate custody, may be issued in the manner provided by law.~~

~~(ef) A peace officer who brings a minor to a detention facility pursuant to a court order for immediate custody shall so inform the person in charge of the facility and the existence of such order shall require the minor's immediate admission. A minor so admitted may not be released without court order.~~

~~(fg) This rule shall not limit the statutory authority of a probation officer to take a minor who has violated a condition of probation into custody.~~

~~(h) The issuance and execution of a warrant in dependency, neglect and abuse cases is governed by Section 78-3a-106 and Section 78-3a-113.~~

~~(i) A warrant for immediate custody shall be signed by a court and shall contain or be supported by the following:~~

~~(i)(1) an order that the minor be taken to the detention or shelter facility or other location designated by the court at the address specified pending a hearing or further order of the court;~~

~~(i)(2) the name, date of birth and last known address of the minor;~~

~~(i)(3) the reasons why the minor is being taken into custody;~~

~~(i)(4) a time limitation on the execution of the warrant;~~

~~(i)(5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and~~

~~(i)(6) the date, county and court location where the warrant is being issued.~~

~~(i)(7) On verbal request from a state officer, peace officer, or child welfare worker or other authorized individual a warrant for custody may be issued telephonically when it appears necessary for the protection of the juvenile. Telephonic warrants shall be supported by an affidavit from the requesting authority the next court business day.~~

~~(j) Search warrants, with an order of immediate custody, may be issued in the manner provided by law.~~

~~(k) A peace officer who brings a minor to a detention or shelter facility pursuant to a court order for immediate custody shall so inform the person in charge of the facility and the existence of such order shall require the minor's immediate admission. A minor so admitted may not be released without court order.~~

~~(g) Return of service on a warrant shall be executed within 72 hours unless otherwise ordered by the Court.~~

~~(h) The juvenile court to retain and file copies - Documents sealed for twenty days -Forwarding of record to court with jurisdiction.~~

~~(1) At the time of issuance, the juvenile court shall retain and seal a copy of the search warrant, the application and all affidavits or other recorded testimony on which the warrant is based and shall, within a reasonable time, file those sealed documents in court files which are secured against access by the public. Those documents shall remain sealed until twenty days following the issuance of the warrant unless that time is extended or reduced. Unsealed search warrant documents shall be filed in the court record.~~

~~(2) Sealing and retention of the file may be accomplished by:~~

~~(A) placing paper documents or storage media in a sealed envelope and filing the sealed envelope in a court file not available to the public;~~

(B) storing the documents by electronic or other means under the control of the court in a manner reasonably designed to preserve the integrity of the documents and protect them against disclosure to the public during the period in which they are sealed; or

(C) filing through the use of an electronic filing system operated by the State of Utah which system is designed to transmit accurate copies of the documents to the court file without allowing alteration to the documents after issuance of the warrant by the juvenile court.

Katie Gregory - Re: URJP Rule 7 Decision and Next meeting

From: Judge Larry Steele
To: Katie Gregory
Date: 7/17/07 1:14PM
Subject: Re: URJP Rule 7 Decision and Next meeting

I'm OK with the new Rule 7A, but those using the "Warrant" form will need to use a "Pick up Order." I am requiring my PO's read a written affidavit to me on the phone, but I am OK to that not being in the rule. I am also OK with the child/minor changes (subject to my standing objection to the underlying illogical definitions which I will make as a comment.) I'm also OK with the Rule 15 changes. At this point, I prefer Sep 14 as the next meeting. (I understand there will be no meeting Aug 3 - the first Friday in August.) Thank you Katie - great work as usual.

>>> Katie Gregory 07/17/2007 11:53:19 AM >>>
URJP Members:

I will be sending you two emails this morning and need your responses as soon as possible. A quorum was only present for a short time at our July 13th meeting and we need to take care of some business by email. **YOUR INPUT IS VERY IMPORTANT!**

1. Please let me know if you can attend a URJP meeting at either of the following dates and times:

Friday **September 7** from 11:30 a.m. to 1:00 p.m.

Friday **September 14** from Noon until 2:00 p.m. (preferred by those in attendance at our July meeting.)

2. **Rule 7--final discussion.** Attached is a memo to Ray Wahl summarizing the final action of the URJP on the Rule 7 Warrant/Pick up Order issue. Also attached are draft minutes from July 13th. We had a quorum present during the Rule 7 discussion. **Please review the memo and minutes and let me know as soon as possible if you have an lingering concerns about the committee's final action to create a Rule 7A.** Carol and I will take this proposal to the Supreme Court in early August.

Thanks!
Katie

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MEMORANDUM

To: Ray Wahl
From: Katie Gregory
Date: July 13, 2007
Subject: URJP Actions Regarding Rule 7–Warrants

The URJP committee met on July 13, 2007 and considered the comments it had received on Rule 7, including both letters submitted by Judge Behrens as Chair of the Board of Juvenile Court Judges. The URJP also reviewed the legal research and memorandum prepared by Maile Verbica, the Juvenile Court Law Clerk.

The URJP noted that Ms. Verbica's research makes a distinction between warrants and pick up orders. The URJP also noted the need for the type of relief facilitated by verbal pick up orders. While the URJP agreed that language similar to that proposed by the Board should be added back into the URJP, the committee felt that it was not appropriate to place this language in Rule 7. The committee's rationale was that if a pick up order is not a warrant, language providing for pick up orders should not be contained in a rule entitled "Warrants." Accordingly, the committee proposes to create a new rule to govern the issue as follows:

Rule 7A. Pick Up Orders.

On verbal request from a probation officer or other authorized individual a pick up order may be issued telephonically during non business hours or under exigent circumstances when it appears necessary for the protection of the community or the minor and shall be supported by an affidavit from the requesting authority the next court business day.

Procedurally, the Chair of the URJP will take this issue to the Supreme Court at its meeting on August 8, 2007. Since it is imperative that the issue be resolved quickly, the URJP Chair will ask the Supreme Court to consider issuing the new Rule 7A under the Court's emergency rule making authority.

I will continue to keep you updated on the status of this issue.

Utah Rules of
Juvenile Procedure

Rule 15. Preliminary inquiry; informal adjustment without petition.

(a) If the minor controverts the allegations in the referral or upon request by the minor, the effort at non-judicial adjustment shall terminate.

(b) In attempting to determine whether the interests of the minor or the public require that a petition be filed, the probation intake officer may conduct one or more interviews with the minor and at least one parent, guardian or custodian and may invite the referring party and the victim, if any, to attend or otherwise seek further information from them. Attendance at any such interview shall be voluntary and the probation intake officer may not compel the disclosure of any information or the visiting of any place. A non-judicial adjustment of the case shall not be attempted if the offense or condition alleged in the referral report as a basis for court jurisdiction is denied by the minor.

(c) In any such interview, the minor and the minor's parent, guardian or custodian must be advised that the interview is voluntary, that they have a right to have counsel present to represent the minor, that the minor has the right not to disclose any information, and that any information disclosed that could tend to incriminate the minor cannot be used against the minor in court to prove whether the minor committed the offense alleged in the referral but may be used as part of a dispositional recommendation to the court.

(d) If the probation intake officer concludes on the basis of the preliminary inquiry that non-judicial adjustment is appropriate and is authorized in such cases by the court, such officer may seek agreement with the minor and the parent, guardian or custodian to a proposed non-judicial adjustment. If such agreement is reached and the terms and conditions agreed upon are satisfactorily complied with by the minor and the minor's parent, guardian or custodian, the case shall be closed without petition. Such resolution of the case shall not be deemed an adjudication of jurisdiction of the court and shall not constitute an official record of juvenile court action or disposition. A non-judicial adjustment may be considered by the probation intake officer in a subsequent preliminary inquiry and by the court for purposes of disposition only following adjudication of a subsequent delinquency involving the same minor.

(e) Attempts to affect non-judicial adjustment of a case shall not extend beyond 60 days without authorization by the court, and then for no more than an additional 60 days.

X

Utah
Code

78-3a-502. Petition - Preliminary inquiry - Nonjudicial adjustments - Formal referral - Citation - Failure to appear.

(1) A proceeding in a minor's case is commenced by petition.

(2) (a) A peace officer or any public official of the state, any county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within ten days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. There shall be no requirement to file a formal referral with the juvenile court on an offense that would be a class B misdemeanor or less if committed by an adult.

(b) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the interests of the public or of the minor require that further action be taken.

(c) Based on the preliminary inquiry, the court may authorize the filing of or request that the county attorney or district attorney as provided under Sections 17-18-1 and 17-18-1.7 file a petition. In its discretion, the court may, through its probation department, enter into a written consent agreement with the minor and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case if the facts are admitted and establish prima facie jurisdiction. Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.

X

(d) The nonjudicial adjustment of a case may include conditions agreed upon as part of the nonjudicial closure:

- (i) payment of a financial penalty of not more than \$250 to the Juvenile Court;
- (ii) payment of victim restitution;
- (iii) satisfactory completion of compensatory service;
- (iv) referral to an appropriate provider for counseling or treatment;
- (v) attendance at substance abuse programs or counseling programs;
- (vi) compliance with specified restrictions on activities and associations; and
- (vii) other reasonable actions that are in the interest of the child or minor and the community.

(e) Proceedings involving offenses under Section 78-3a-506 are governed by that section regarding suspension of driving privileges.

(f) A violation of Section 76-10-105 that is subject to the jurisdiction of the Juvenile Court shall include a minimum fine or penalty of \$60 and participation in a court-approved tobacco education program, which may include a participation fee.

(3) Except as provided in Section 78-3a-602, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.

(4) (a) In cases of violations of fish and game laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court, a petition is not required and the issuance of a citation as provided in Section 78-3a-503 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is not required unless requested by the court.

(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.

History: C. 1953, 78-3a-502, enacted by L. 1996, ch. 1, § 49; 1997, ch. 365, § 39; 1998, ch. 94, § 14; 1998, ch. 240, § 2; 2002, ch. 212, § 2; 2006, ch. 55, § 17; 2006, ch. 281, § 40.