

SJR010S01 compared with SJR010

{Omitted text} shows text that was in SJR010 but was omitted in SJR010S01

inserted text shows text that was not in SJR010 but was inserted into SJR010S01

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1 **Joint Resolution Amending Court Rules Regarding Pleas**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor:

3 **LONG TITLE**

4 **General Description:**

5 This joint resolution amends court rules of procedure regarding pleas.

6 **Highlighted Provisions:**

7 This resolution:

8 ▶ ~~{amends Utah Rules of Appellate Procedure, Rule 4, to address the time period for an~~
9 ~~appeal with regard to a motion to withdraw a plea; }~~

10 ▶ amends Utah Rules of Criminal Procedure, Rule 11, to address pleas; and

11 ▶ makes technical and conforming changes.

10 **Other Special Clauses:**

11 This resolution provides a special effective date.

12 **Utah Rules of Criminal Procedure Affected:**

13 **AMENDS:**

16 ~~{Rule 4, Utah Rules of Appellate Procedure, Utah Rules of Appellate Procedure}~~

14 **Rule 11** , Utah Rules of Criminal Procedure , Utah Rules of Criminal Procedure

SJR010

SJR010 compared with SJR010S01

16 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
17 *of the two houses voting in favor thereof:*

18 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of
19 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all
20 members of both houses of the Legislature:

26 Section 1. **Rule 4**, Utah Rules of Appellate Procedure is amended to read:

27 **Rule 4. Appeal as of right: when taken.**

(a) **Appeal as of right.** Except as provided in paragraph (a)(1) or (a)(2), in a case in which an appeal is permitted as a matter of right from the trial court to the appellate court, the notice of appeal required by Rule 3 must be filed with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from. If the trial court enters a judgment or order on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the first day following the trial court's entry that is not a Saturday, Sunday, or legal holiday.

(1) When a judgment or order is entered in a statutory forcible entry or unlawful detainer action, the notice of appeal required by Rule 3 must be filed with the clerk of the trial court within 10 days after the date of entry of the judgment or order appealed from.

(2) When an order is entered denying, in whole or in part, a motion to dismiss under Utah Code section 78B-25-103, the notice of appeal must be filed with the clerk of the trial court within 21 days after the date of entry of the order appealed from.

(b) **Time for appeal extended by certain motions.**

(1) If a party timely files in the trial court any of the following, the time for all parties to appeal from the judgment runs from the entry of the dispositive order:

(A) [A] a motion for judgment under Rule 50(b) of the Utah Rules of Civil Procedure;

(B) [A] a motion to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted, under Rule 52(b) of the Utah Rules of Civil Procedure;

(C) [A] a motion to alter or amend the judgment under Rule 59 of the Utah Rules of Civil Procedure;

(D) [A] a motion for a new trial under Rule 59 of the Utah Rules of Civil Procedure;

(E) [A] a motion for relief under Rule 60(b) of the Utah Rules of Civil Procedure if the motion is filed no later than 28 days after the judgment is entered;

SJR010 compared with SJR010S01

(F) [A] a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure; [or]

(G) [A] a motion for a new trial under Rule 24 of the Utah Rules of Criminal Procedure[.]; or

(H) a motion to withdraw a plea of guilty, no contest, or guilty with a mental condition under Rule 11 of the Utah Rules of Criminal Procedure.

(2) A notice of appeal filed after announcement or entry of judgment, but before entry of an order disposing of any motion listed in this paragraph (b), will be treated as filed after entry of the order and on the day thereof, except that such a notice of appeal is effective to appeal only from the underlying judgment. To appeal from a final order disposing of any motion listed in paragraph (b), a party must file a notice of appeal or an amended notice of appeal within the prescribed time measured from the entry of the order. If multiple motions in paragraph (b) are timely filed and the court decides any motion by separate order, the time to file a notice of appeal runs from the entry of the last order.

(c) **Filing prior to entry of judgment or order.** A notice of appeal filed after the announcement of a decision, judgment, or order but before entry of the judgment or order will be treated as filed after such entry and on the day thereof.

(d) **Additional or cross-appeal.** If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed, or within the time otherwise prescribed by paragraphs (a) and (b) of this rule, whichever period last expires.

(e) **Motion for extension of time.**

(1) The trial court, upon a showing of good cause, may extend the time for filing a notice of appeal upon motion filed before the expiration of the time prescribed by paragraphs (a) and (b) of this rule. Responses to such motions for an extension of time are disfavored and the court may rule at any time after the filing of the motion. No extension can exceed 30 days beyond the prescribed time or 14 days beyond the date of entry of the order granting the motion, whichever occurs later.

(2) The trial court, upon a showing of good cause or excusable neglect, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by paragraphs (a) and (b) of this rule. The court may rule at any time

SJR010 compared with SJR010S01

after the filing of the motion. That a movant did not file a notice of appeal to which paragraph (c) would apply is not relevant to the determination of good cause or excusable neglect. An extension may not exceed 30 days beyond the prescribed time or 14 days beyond the date of entry of the order granting the motion, whichever occurs later.

(f) Motion to reinstate period for filing a direct appeal in criminal cases.

(1) The trial court will reinstate the 30 day period for filing a direct appeal [ina] in a criminal case if a defendant demonstrates by a preponderance of the evidence that the defendant was deprived of the right to appeal through no fault of the defendant.

(2) The motion must be filed within one year, or within a reasonable time, whichever is later, from the day on which the defendant personally knew, or should have known in the exercise of reasonable diligence, of evidentiary facts forming the basis of the claim that the defendant was deprived of the right to appeal.

(A) The motion must state:

(i) the date the defendant learned that the defendant was denied the right to an appeal.; and

(ii) how the defendant learned that the defendant was denied the right to an appeal.

(B) If the motion is filed more than one year after the defendant learned that the defendant was denied the right to an appeal, the defendant must allege all of the grounds that support the allegation that the delay in filing the motion was reasonable.

(3) If the defendant is not represented by counsel and is indigent, the trial court will appoint counsel.

(4) The motion must be served on the prosecuting entity. The prosecutor may file a response to the motion within 28 days after being served.

(5) If the motion to reinstate the time to appeal is opposed, the trial court will set a hearing at which the parties may present evidence.

(6) If the prosecutor opposes the motion on the ground that the defendant filed it beyond the time limit in paragraph (f)(2), the prosecutor must prove, by a preponderance of the evidence, that the defendant's delay was unreasonable. The court may deny the motion as untimely only if the court finds that the prosecutor has carried this burden.

(7) If the trial court enters an order reinstating the time for filing a direct appeal, the defendant's notice of appeal must be filed with the clerk of the trial court within 30 days after

SJR010 compared with SJR010S01

the date the order is entered.

(g) Motion to reinstate period for filing a direct appeal in civil cases.

(1) The trial court will reinstate the 30 day period for filing a direct appeal if the trial court finds by a preponderance of the evidence that:

(A) The party seeking to appeal lacked actual notice of the entry of judgment at a time that would have allowed the party to file a timely motion under paragraph (e) of this rule;

(B) The party seeking to appeal exercised reasonable diligence in monitoring the proceedings; and

(C) The party, if any, responsible for serving the judgment under Rule 58A(d) of the Utah Rules of Civil Procedure did not promptly serve a copy of the signed judgment on the party seeking to appeal.

(2) A party seeking such reinstatement must file a written motion in the trial court within one year from the entry of judgment. The party must comply with Rule 7 of the Utah Rules of Civil Procedure and must serve each of the parties in accordance with Rule 5 of the Utah Rules of Civil Procedure.

(3) If the trial court enters an order reinstating the time for filing a direct appeal, a notice of appeal must be filed within 30 days after the date of entry of the order.

21 Section 2. **Rule 11**, Utah Rules of Criminal Procedure is amended to read:

22 **Rule 11. Pleas.**

(a) Upon arraignment, except for an infraction, a defendant must be represented by counsel, unless the defendant waives counsel in open court. The defendant must not be required to plead until the defendant has had a reasonable time to confer with counsel.

(b) A defendant may plead not guilty, guilty, no contest, not guilty by reason of insanity, or guilty [and mentally ill]with a mental condition at the time of the offense. A defendant may plead in the alternative not guilty or not guilty by reason of insanity. If a defendant refuses to plead or if a defendant corporation fails to appear, the court will enter a plea of not guilty.

(c) A defendant may plead no contest only with the consent of the court.

(d) When a defendant enters a plea of not guilty, the case will be set for trial. A defendant unable to make bail must be given a preference for an early trial. In cases

SJR010 compared with SJR010S01

other than felonies the court will advise the defendant, or counsel, of the requirements for making a written demand for a jury trial.

(e) The court may refuse to accept a plea of guilty, no contest, or guilty [and mentally ill]with a mental condition at the time of the offense, and may not accept the plea until the court has found:

[(e)](1) if the defendant is not represented by counsel, [he or she]the defendant has knowingly waived the right to counsel and does not desire counsel;

[(e)](2) the plea is voluntarily made;

[(e)](3) the defendant knows of the right to the presumption of innocence, the right against compulsory self-incrimination, the right to a speedy public trial before an impartial jury, the right to confront and cross-examine in open court the prosecution witnesses, the right to compel the attendance of defense witnesses, and that by entering the plea, these rights are waived;

[(e)](4)(A) the defendant understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements; and

[(e)](4)(B) there is a factual basis for the plea. A factual basis is sufficient if it establishes that the charged crime was actually committed by the defendant or, if the defendant refuses or is otherwise unable to admit culpability, that the prosecution has sufficient evidence to establish a substantial risk of conviction;

[(e)](5) the defendant knows the minimum and maximum sentence, and if applicable, the minimum mandatory nature of the minimum sentence, that may be imposed for each offense to which a plea is entered, including the possibility of the imposition of consecutive sentences;

[(e)](6) if the tendered plea is a result of a prior plea discussion and plea agreement, and if so, what agreement has been reached;

[(e)](7) the defendant has been advised of the time limits for filing any motion to withdraw the plea; and

[(e)](8) the defendant has been advised that the right of appeal is limited.

These findings may be based on questioning of the defendant on the record or, if used, a

SJR010 compared with SJR010S01

written statement reciting these factors after the court has established that the defendant has read, understood, and acknowledged the contents of the statement. If the defendant cannot understand the English language, it will be sufficient that the statement has been read or translated to the defendant.

Unless specifically required by statute or rule, a court is not required to inquire into or advise concerning any collateral consequences of a plea.

(f)

(1) A defendant may withdraw a plea of not guilty at any time before conviction.

~~{(1)}~~ (2) A defendant must make a motion to withdraw a plea of guilty, no contest, or guilty with a mental condition at the time of the offense {within 30 days after} before the {day of sentencing} sentence is announced. The court

may not announce the defendant's sentence unless the motion to withdraw the plea is denied.

~~{(2)}~~ A defendant must make a motion to withdraw {from} a plea in abeyance {agreement} within 30 days after

{within 30 days after} the day on which the {courts enters} court accepts the {order for the} defendant's plea {in abeyance} of guilty or no contest.

(4) If a motion to withdraw a plea is not made within the time period described in this paragraph (f), the defendant may challenge the plea in accordance with the preservation rule, or an established exception to the preservation rule, in a direct appeal.

~~{(3)}~~ (5) Failure to advise the defendant of the time limits for filing any motion to withdraw a plea[of guilty, no contest or guilty and mentally ill] is not a ground for setting the plea aside, but may be the ground for extending the time to make a motion under [{Utah Code} § 77-13-6] this paragraph (f).

(g) If the defendant pleads guilty, no contest, or guilty [and mentally ill]with a mental condition at the time of the offense to a misdemeanor crime of domestic violence, as defined in Utah Code [§]section 77-36-1, the court will advise the defendant orally or in writing that, if the case meets the criteria of 18 U.S.C. [§]Sec. 921(a)(33) or Utah Code [§]section 76-10-503 then pursuant to federal law or state law, it is unlawful for the defendant to possess, receive or transport any firearm or ammunition. The failure to advise does not render the plea invalid or form the basis for withdrawal of the plea.

(h)

SJR010 compared with SJR010S01

[(h)](1) If it appears that the prosecuting attorney or any other party has agreed to request or recommend the acceptance of a plea to a lesser included offense, or the dismissal of other charges, the agreement must be approved or rejected by the court.

[(h)](2) If sentencing recommendations are allowed by the court, the court will advise the defendant personally that any recommendation as to sentence is not binding on the court.

(i)

[(i)](1) The judge will not participate in plea discussions prior to any plea agreement being made by the prosecuting attorney.

[(i)](2) When a tentative plea agreement has been reached, the judge, upon request of the parties, may permit the disclosure of the tentative agreement and the reasons for it, in advance of the time for tender of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the proposed disposition will be approved.

[(i)](3) If the judge then decides that final disposition should not be in conformity with the plea agreement, the judge must advise the parties as to the nature of the divergence from the plea agreement and then call upon the parties to either affirm or withdraw from the plea agreement.

(j) With approval of the court and the consent of the prosecution, a defendant may enter a conditional plea of guilty, guilty [and mentally ill]with a mental condition at the time of the offense, or no contest, reserving in the record the right, on appeal from the judgment, to a review of the adverse determination of any specified pre-trial motion. A defendant who prevails on appeal will be allowed to withdraw the plea.

(k) When a defendant tenders a plea of guilty [and mentally ill]with a mental condition at the time of the offense, in addition to the other requirements of this rule, the court will hold a hearing within a reasonable time to determine if the defendant [is mentally ill]had a mental condition in accordance with Utah Code [§]section 77-16a-103.

(l) Compliance with this rule will be determined by examining the record as a whole. Any variance from procedures required by this rule which does not affect substantial rights will be disregarded. Failure to comply with this rule is not, by itself, sufficient grounds for a collateral attack on a guilty plea.

SJR010 compared with SJR010S01

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.