

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

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

House Sponsor:

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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.

12 **Other Special Clauses:**

13 This resolution provides a special effective date.

14 **Utah Rules of Appellate Procedure Affected:**

15 AMENDS:

16 **Rule 4**, Utah Rules of Appellate Procedure

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

18 AMENDS:

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

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

23 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of  
24 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all  
25 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.**

28 (a) **Appeal as of right.** Except as provided in paragraph (a)(1) or (a)(2), in a case in which  
29 an appeal is permitted as a matter of right from the trial court to the appellate court, the notice  
30 of appeal required by Rule 3 must be filed with the clerk of the trial court within 30 days after

31 the date of entry of the judgment or order appealed from. If the trial court enters a judgment or  
 32 order on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the first  
 33 day following the trial court's entry that is not a Saturday, Sunday, or legal holiday.

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

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

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

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

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

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

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

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

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

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

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

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

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

65 file a notice of appeal runs from the entry of the last order.

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

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

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

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

80 (2) The trial court, upon a showing of good cause or excusable neglect, may extend the  
81 time for filing a notice of appeal upon motion filed not later than 30 days after the expiration  
82 of the time prescribed by paragraphs (a) and (b) of this rule. The court may rule at any time  
83 after the filing of the motion. That a movant did not file a notice of appeal to which paragraph  
84 (c) would apply is not relevant to the determination of good cause or excusable neglect. An  
85 extension may not exceed 30 days beyond the prescribed time or 14 days beyond the date of  
86 entry of the order granting the motion, whichever occurs later.

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

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

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

95 (A) The motion must state:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

132 **Rule 11 . Pleas.**

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

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

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

143 (d) **Not guilty plea.** When a defendant enters a plea of not guilty, the case will be set for  
144 trial. A defendant unable to make bail must be given a preference for an early trial. In cases  
145 other than felonies the court will advise the defendant, or counsel, of the requirements for  
146 making a written demand for a jury trial.

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

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

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

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

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

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

166 [(e)](5) the defendant knows the minimum and maximum sentence, and if applicable,

167 the minimum mandatory nature of the minimum sentence, that may be imposed for each  
 168 offense to which a plea is entered, including the possibility of the imposition of consecutive  
 169 sentences;

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

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

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

175 These findings may be based on questioning of the defendant on the record or, if used, a  
 176 written statement reciting these factors after the court has established that the defendant has  
 177 read, understood, and acknowledged the contents of the statement. If the defendant cannot  
 178 understand the English language, it will be sufficient that the statement has been read or  
 179 translated to the defendant.

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

182 (f) **Motion to withdraw plea.**

183 \_\_\_\_ (1) A defendant must make a motion to withdraw a plea of guilty, no contest, or guilty  
 184 with a mental condition at the time of the offense within 30 days after the day of sentencing.

185 \_\_\_\_ (2) A defendant must make a motion to withdraw from a plea in abeyance agreement  
 186 within 30 days after the day on which the courts enters the order for the plea in abeyance.

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

191 (g) **Plea in domestic violence offense.** If the defendant pleads guilty, no contest, or guilty [  
 192 ~~and mentally ill~~] with a mental condition at the time of the offense to a misdemeanor crime of  
 193 domestic violence, as defined in Utah Code [~~§~~] section 77-36-1, the court will advise the  
 194 defendant orally or in writing that, if the case meets the criteria of 18 U.S.C. [~~§~~] Sec.  
 195 921(a)(33) or Utah Code [~~§~~] section 76-10-503 then pursuant to federal law or state law, it is  
 196 unlawful for the defendant to possess, receive or transport any firearm or ammunition. The  
 197 failure to advise does not render the plea invalid or form the basis for withdrawal of the plea.

198 (h) **Plea recommendations.**

199 [(h))(1) If it appears that the prosecuting attorney or any other party has agreed to  
 200 request or recommend the acceptance of a plea to a lesser included offense, or the dismissal of

201 other charges, the agreement must be approved or rejected by the court.

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

204       (i) **Plea agreements.**

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

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

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

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

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

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

229       Section 3. **Effective date.**

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