

78A-6-109 Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

- (1) After a petition is filed the court shall promptly issue a summons, unless the judge directs that a further investigation is needed. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or prior to the hearing.
- (2) The summons shall contain:
 - (a) the name of the court;
 - (b) the title of the proceedings; and
 - (c) except for a published summons, a brief statement of the substance of the allegations in the petition.
- (3) A published summons shall state:
 - (a) that a proceeding concerning the minor is pending in the court; and
 - (b) an adjudication will be made.
- (4) The summons shall require the person or persons who have physical custody of the minor to appear personally and bring the minor before the court at a time and place stated. If the person or persons summoned are not the parent, parents, or guardian of the minor, the summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing.
- (5) Summons may be issued requiring the appearance of any other person whose presence the court finds necessary.
- (6) If it appears to the court that the welfare of the minor or of the public requires that the minor be taken into custody, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.
- (7) Subject to Subsection 78A-6-117(2)(n)(iii), upon the sworn testimony of one or more reputable physicians, the court may order emergency medical or surgical treatment that is immediately necessary for a minor concerning whom a petition has been filed pending the service of summons upon the minor's parents, guardian, or custodian.
- (8) A parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A guardian ad litem or a probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.
- (9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Civil Procedure.
- (10) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by his deputy; but upon request of the court service shall be made by any other peace officer, or by another suitable person selected by the court.
- (11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned; provided, however, that parents of a minor living together at their usual place of abode may both be served by personal delivery to either parent or copies of the summons, one copy for each parent.
- (12) If the judge makes a written finding that he has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, he may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state. Service shall be complete upon return to the court of the signed receipt.

- (13) If the parents, parent, or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of their minor's presence within the state shall confer jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent parent or guardian, provided that due notice has been given in the following manner:
- (a) If the address of the parent or guardian is known, due notice is given by sending him a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return to the court of the signed receipt.
 - (b)
 - (i) If the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:
 - (A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; and
 - (B) in accordance with Section 45-1-101 for four weeks.
 - (ii) Service shall be complete on the day of the last publication.
 - (c) Service of summons as provided in this subsection shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.
- (14) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction. In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.
- (15) Computation of periods of time under this chapter shall be made in accordance with the Utah Rules of Civil Procedure.

Amended by Chapter 388, 2009 General Session