

**SUMMARY MINUTES (DRAFT)
SUPREME COURT'S ADVISORY COMMITTEE
ON THE
RULES OF JUVENILE PROCEDURE
Administrative Office of the Courts
450 South State Street
Conference Rooms B & C
Salt Lake City, Utah
June 2, 2006**

Present

Carol Verdoia
Judge Lindsley
Ed Peterson
Paul Wake
Nelson Abbott
Alan Sevison
Narda Beas-Nordell

Excused

Adam Trupp
Judge Steele
Matty Branch
Claudia Page
Jeff Noland
Pam Vickery
Kristin Brewer
Brent Bartholomew

Staff

Katie Gregory

I. Minutes and Welcome

Carol Verdoia welcomed all members and called for approval of the minutes. Ed Peterson moved to approve the minutes of the February 3, 2006 meeting and Judge Lindsley seconded the motion. The motion passed unanimously.

II. *Proposed New Rules resulting from the passage of H. B. 85–Judicial Bypass Procedure to Authorize Minor to Consent to Abortion* (Carol Verdoia)

Carol discussed how proposed Rule 60 was created through the Supreme Court's emergency rule making procedure. She reviewed the underlying House Bill 85, which created the necessity for the rule, the committee's role in reviewing the rule and public comments. The public comment period is open until June 16, 2006 and Katie handed out a copy of the comments submitted to date.

Discussion followed regarding whether the minor's parents should be able to participate in the hearing. Members felt the standards to be applied were not clear. Alan expressed concern that we could be creating substantive law within the rule by designating who may or may not be excluded from the hearing. Additional discussion followed regarding the constitutional nature of parental rights and the fact that the new statute is codified in the criminal code rather than in

the Juvenile Court Act.

The role of the parent was discussed and the question was raised whether this role is changed because the child is herself becoming a parent.

MOTION: Alan made a motion that the committee use today's meeting to identify a list of questions and issues of concerns and have the list submitted to someone in the courts who can review it based on knowledge of case law. Paul seconded the motion and it passed unanimously.

The Committee then identified the following issues:

1. Who is entitled to receive notice? The Committee discussed the role of the parent(s) and whether the parent has a due process right to notice. Members clarified that the petitioner is the minor not the parent. Alan asked whether paragraph (g) is consistent with the law? Does it preclude giving notice of the hearing to a parent? The committee would like to know if there is Utah or federal law that precludes giving notice to the parents.

2. Who does the GAL represent? Does the rule assume the minor is emancipated and if so, how does that impact the minor's right to representation? If other counsel is appointed for the minor, who pays for it?

3. Nelson Abbott suggested the following specific revisions:

Paragraph (a): Adding the words "personnel shall" in the last sentence in place of "will" to read "The court personnel shall provide assistance...."

Paragraph c): Replace "the juvenile court shall consider appointing an attorney" with "the juvenile court may appoint an attorney."

Paragraph (d): In the fourth sentence, replace "The hearing shall be closed to everyone" with the statutory language "The hearing shall be closed to the public."

Paragraph (d): Provides that "the clerk shall immediately provide notice of the hearing date and time," but does not state to whom notice shall be provided.

4. Definition of a "judicial day." Committee members questioned whether this is defined as a normal working day when the courts are open to the public. The committee also questioned the reasoning behind the use of "24 hours" in paragraph (f).

5. Paragraph (I): The committee suggested changing "might" to "may."

6. Confidentiality. Members questioned whether paragraph (g) is in conflict with paragraph (e)

which implies the petitioner has the right to waive confidentiality. Should paragraph (g) be revised to indicate that court personnel are prohibited from notifying/disclosing “except as provided in paragraph (e) above.”

7. Why is venue appropriate in any county and is this provision consistent with the statute?

Carol asked Katie to invite Rick Schwermer or Brent Johnson to attend the next meeting, give background on these issues, and explain the state of case law regarding a minor’s right to an abortion.

The next meeting was tentatively set for Friday, August 4, 2006 from noon until 2:00 p.m.

Paul and Ed expressed the committee’s appreciation to Carol for presenting what could otherwise have been a contentious discussion.

III. *H. B. 103–Changes to Definition of Child and Minor Discussion regarding Impact on URJP*

The matter of H.B. 103 was tabled until the next meeting. Carol agreed to email out assignments to members asking them to review particular rules for the use of the terms “child” and “minor” prior to the next meeting.

There being no further time available, the meeting adjourned at 1:00 p.m.