

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

October 1, 2010

Noon to 1:40 p.m.

Conference Rooms B & C

MEETING DATE			TIME			LOCATION		
MEMBERS:			Present	Absent	Excused	MEMBERS:		
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Narda Beas-Nordell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Diane Abegglen	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Paul Wake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brent Bartholomew	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Joan Carroll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Renee Jimenez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
AOC STAFF:			Present	Absent	GUESTS:			
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Lauren Brown-Washburn U of U Law School Intern	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		Matthew Janzen	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		Rick Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

AGENDA TOPIC

I. Welcome & Approval of minutes		CHAIR: CAROL VERDOIA
<p>Corrections to the Minutes: None Carol Verdoia introduced guests, Matthew Janzen from the D.A.'s office and Lauren Brown-Washburn, a law student intern with the Lokken law firm.</p>		
Motion: To approve the minutes of August 6, 2010	By: Judge Lindsley	Second: Joan Carroll
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

II. Consent by Parent/Guardian/Custodian prior to Juvenile's Waiver of Constitutional Rights if Interrogated by Law Enforcement	[PRESENTER] CAROL VERDOIA
<p>Discussion: Carol Verdoia reviewed the committee's prior discussions and highlighted questions that have come to light since the last meeting. One issue relates to the availability of the GAL to appear and consent to a juvenile's waiver after hours. For example, would a GAL be available to consent if a fight occurred in a detention center on a weekend and law enforcement wanted to interview a foster youth who was a witness? A second question was whether consent from a GAL must be obtained for youth of any age, or is it limited to youth for whom consent is otherwise required because the youth is under 14 years of age? A third concern is whether the failure to get consent to interview a victim of sexual abuse would prohibit the evidence from being used in court.</p> <p>Carol will ask the AG's law clerk to review the legislative history of 62A-4a-415. Youth who are 14 and older have the ability to waive their own right, while youth under age 14 are not considered competent to exercise the waiver and are referred to a parent or GAL. The statute may be interpreted in two ways: 1) consent of GAL is required for all children in DCFS custody</p>	

Section 76-5-411 requires pretrial notices to the opposing party so that evidence may be reviewed for reliability and trustworthiness. Mr. Janzen discussed how the rules may differ in juvenile court where the judge is the fact finder, rather than a jury. Having a jury may necessitate additional protections not needed in juvenile court. However, juvenile judges are required to make similar determinations in many situations (motions to suppress, motion in limine to allow expert testimony, etc.).

A separate discussion was held regarding whether Rule 29A should apply to both delinquency and child welfare proceedings. At a minimum Mr. Janzen recommended adding language similar to URCrP 15.5(a)(1) to the juvenile rule and deleting language contained in Rule 29A(a)(8). Mr. Janzen agreed to send proposed language related to whether a pretrial motion should be mandatory or discretionary for discussion at the December 3rd meeting.

Action Item:	Place issue on the agenda for December 3 rd and invite Matthew Janzen to return to discuss the issue further.