

**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
December 1, 2006**

Present

Carol Verdoia
Judge Lindsley
Alan Sevison
Paul Wake
Ed Peterson
Brent Bartholomew
Pam Vickery
Judge Steele
Kristin Brewer
Jeff Noland

Excused

Matty Branch
Claudia Page
Narda Beas-Nordell
Nelson Abbott

Staff

Katie Gregory

Guests

Dan Maldonado

I. Welcome and Approval of Minutes

Carol Verdoia called the meeting to order and called for approval of the minutes. Judge Lindsley moved to approve the minutes of the September 29, 2006 and October 20, 2006 meetings and Ed Peterson seconded the motion. The motion passed unanimously. The committee deferred approval of the minutes of September 8, 2006 until further discussion.

II. *Discussion regarding Impact of H. B. 103—Changes to Definition of Child and Minor*

Carol Verdoia introduced Dan Maldonado, Director of the Utah Division of Juvenile Justice Services. Dan agreed to participate in the meeting regarding the impact of changes to the statutory definitions of minor and child.

The committee began by addressing Rules 6-10, which had been deferred for later discussion at the September 8, 2006 meeting.

Rule 6. Admission to detention without court order.

Rule 6 does not contain the words minor or child.

Rule 7. Warrants for immediate custody of minors; grounds; execution of warrants; search warrants.

The committee began by discussing some of the differences in practices around the state related

to whether youth over 18 are placed in detention and whether or not they are then sent to jail if they act out in a secure facility.

The committee discussed at length concerns that detention centers should be used appropriately and not be inadvertently opened to any offender between the ages of 18 and 21. The use of detention centers for those over 18 should be limited to special situations. The committee also addressed ways to keep these youth in detention when it is deemed appropriate and prevent them from using acting out as a method to go to jail and obtain bail. The following change to Rule 7(d) (1) was discussed: *"an order that the minor ~~over the age of 17~~ be taken to the juvenile detention or shelter facility or an adult detention facility if appropriate, designated by the court at the address specified pending a hearing or further order of the court;"*.

Further discussion followed regarding the nature of a warrant for a minor now over 18 who committed an offense before the age of 18. It was determined that the judge can issue a jail warrant for the minor. The individual would not be placed in JJS custody, but could be placed in detention on a short term basis until a detention hearing is held. Alan suggested that the law is broader than the rule and the judge would still have the discretion to place as appropriate. Another concern was to protect the system from blended sentencing when dealing with a serious youth offender, for example.

Discussion followed regarding whether to change or delete subparagraph (I).

It was noted that the difference is that in one instance, JJS or a probation officer requests a warrant and in the other the request is through the filing of a child welfare petition. It was noted that subparagraph (I) was added when the child welfare statute on warrants was changed.

MOTION: Ed made a motion to leave Rule 7 as written for subparagraphs a, b, c and their subsections. Judge Lindsley seconded the motion and it passed unanimously.

MOTION: Ed made a motion to amend subparagraph (d)(1) of Rule 7 to read *"an order that the minor be taken to the juvenile detention or shelter facility or an adult detention facility, if appropriate, designated by the court at the address specified pending a hearing or further order of the court;"* Judge Lindsley seconded the motion and it passed unanimously.

MOTION: Ed made a motion that subparagraphs (d)(2) through (d)(6) of Rule 7 remain the same and in subparagraph (d)(7) of Rule 7 the word "juvenile" be changed to "minor." Kristin seconded the motion and it passed unanimously.

The committee discussed leaving the language of the existing subparagraph (h) as is, but renumbering it as subparagraph (b). All sections beginning with the existing subparagraph (b) would then require renumbering in sequence.

MOTION: Ed made a motion that the existing subparagraph (h) remain as is, but be renumbered as subparagraph (b). Further that all sections beginning with the existing subsection (b) are renumbered to accommodate the insertion. Alan seconded the motion and it passed unanimously.

MOTION: Alan made a motion to strike the original subsections (I), (j) and (k). Ed seconded the motion and it passed unanimously.

Rule 8. Rights of minor while in detention.

The committee noted that Rule 8 will require a detailed discussion and deferred consideration to another meeting in the interest of time.

Rule 9. Detention hearings; scheduling; hearing procedure.

After brief discussion, the following motion was made:

MOTION: Ed moved that Rule 9 remain the same. Judge Steele seconded the motion and it passed unanimously.

Rule 10. Bail for non-resident minors.

The discussion of Rule 10 was deferred to another meeting in the interest of time.

The Committee set its next meeting for Friday, January 5, 2007 from noon until 2:00 p.m. The meeting adjourned.