



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Approved Meeting Minutes

October 2, 2020

Webex Meeting:

<https://utcourts.webex.com/utcourts/j.php?MTID=mbc3f4283e215b5e3e03b5e469762c>

[2d6](#)

12:00 pm – 2:00 pm

David Fureigh, Chair

Attendees:

David Fureigh, Chair

Judge Mary Manley

Arek Butler

Monica Diaz

Michelle Jeffs

Matthew Johnson

Sophie Moore

Mikelle Ostler

Jordan Putnam

Janette White

Chris Yannelli

Carol Verdoia, Emeritus

Staff:

Bridget Koza

Xen Fedison, Juvenile Court Law Clerk

Meg Sternitzky, Juvenile Court Law Clerk

Guests:

Jacqueline Carlton, Office of Legislative
Research and General Counsel

1. Welcome and approval of the August 7, 2020 meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the minutes.

Michelle Jeffs moved to approve the August 7, 2020 meeting minutes. Judge Mary Manley seconded the motion, and it passed unanimously.

David also introduced, Matthew Johnson, as the newest committee member and all committee members disclosed their professional practice.

2. Action – Rule 48: Post-Judgment Motions: (Arek Butler)

Arek Butler discussed with the committee the amendment to Utah Code § 78A-6-1108 and if there should be a change to Rule 48. He discussed State ex rel. C.L., 166 P.3d 608 (2007) and how there are differences between Rules 59 and 60 and Utah § 78A-6-1108 of when the motions need to be filed and who can file them and given the differences, Rule 48 should be left as is and just include a reference to Utah § 78A-6-1108.

Arek Butler moved to amend paragraph (a) of Rule 48 to say “Except as provided in paragraph (c), new hearings shall be available in accordance with Utah R. Civ. P. 52, 59, and 60, and Utah Code 78A-6-1108” and present the revised Rule 48 to the Supreme Court to obtain permission to publish it for public comment. Jordan Putnam seconded the motion, and it passed unanimously.

3. Action – Appointment of a Guardian ad Litem for Incompetent Parent: (David Fureigh)

Bridget Koza updated the committee members regarding her reaching out to Nancy Sylvester, who staffs the Civil Rules Committee, and Nancy referring the issue brought up in footnote 6 in *In re G.J.P.* be referred to the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) Committee. Bridget met with the WINGS’ Executive Committee on September 28, 2020, and the Executive Committee agreed to take the issue to the whole committee on October 15, 2020. The WINGS’ Executive Committee believes that this issue in footnote 6 may need a legislative fix. The committee discussed as well as that there probably needs to be a legislative fix before it would be addressed in the Rules.

Sophie Moore moved to present issue to the Supreme Court to seek future guidance given that issue may need to be addressed legislatively and present law clerk research memorandum. Monica Diaz seconded the motion, and it passed unanimously.

4. Discussion – Appellate Rules 19 and 20: (Bridget Koza)

Bridget discussed with the committee that Larissa Lee, who staffs the Appellate Rules Committee, wanted the Juvenile Rules Committee to discuss if there needs to be references to juvenile court in Appellate Rules 19 and 20 since both just reference “district court.” The committee discussed that Appellate Rule 19(b)(5) should reference juvenile court in addition to district court. The committee discussed that habeas corpus petitions might not be able to heard in juvenile court and those petitions are heard by district court. The committee did discuss that with e-filing, it is not clear how a habeas petition could be filed in district court since the underling case is in juvenile court.

Bridget will email Larissa Lee the feedback from the committee about Appellate Rules 19 and 20.

5. Discussion – Venue Transfer and Rule 16: (Bridget Koza)

Bridget discussed with the committee that with the recodification of the Juvenile Court Act there is effort to take procedure out of the statute and have them in the rules. Utah Code § 78A-6-110 discusses the process for venue transfer that is applicable in delinquency and child welfare cases. There is not a corresponding Rule and Rule 16 deals with delinquency cases at the preliminary inquiry. The committee discussed the need to update Rule 16 and Janette White will present a draft at the next meeting.

Rule 16 will be placed on the November 6, 2020 agenda.

6. Old business/new business: (All)

The Committee discussed potential future agenda items:

- Bridget discussed an email from Judge Lindsley regarding Rule 18 and service by publication. Utah Code § 78A-6-109 discusses service by publication and specifically publication in newspapers and committee will discuss Rule 18 at the November 6, 2020 meeting. Bridget will reach out to Michael Dreschel about whether there will be changes to the statute with the recodification of the Juvenile Court Act.

The meeting adjourned at 1:35 pm. The next meeting will be held on November 6, 2020 at 12:00 pm via Webex.