



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

### Approved Meeting Minutes

November 6, 2020

Webex Meeting:

<https://utcourts.webex.com/utcourts/j.php?MTID=m6f8e8597a6437ca5b0a09cab46676596>

12:00 pm – 2:00 pm

*David Fureigh, Chair*

| <u>Attendees:</u>        | <u>Staff:</u>  |
|--------------------------|--|
| David Fureigh, Chair     | Bridget Koza   |
| Judge Mary Manley        | Meg Sternitzky, Juvenile Court Law Clerk                               |
| Judge Elizabeth Lindsley | Xen Fedison, Juvenile Court Law Clerk                                  |
| Monica Diaz              |  |
| Michelle Jeffs           | <u>Guests:</u>   |
| Matthew Johnson          | Jacqueline Carlton, Office of Legislative Research and General Counsel |
| Mikelle Ostler           |  |
| Jordan Putnam            |  |
| Janette White            |  |
| Chris Yannelli           |  |
| Carol Verdoia, Emeritus  |  |

#### 1. Welcome and approval of the October 2, 2020 meeting minutes: (David Fureigh)

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

*Judge Manley moved to approve the October 2, 2020 meeting minutes. Matthew Johnson seconded the motion, and it passed unanimously.*

#### 2. Action – Rule 48 Post-Judgment Motions: (David Fureigh)

David Fureigh updated with the committee regarding the Supreme Court reviewing the proposed amendment to reference Utah Code § 78A-6-1108 in Rule 48 at their conference on October 19, 2020. The justices did not approve the proposed amendment

to be published for comment since the Juvenile Court Act will be re-codified in the upcoming legislative session. The committee discussed leaving Rule 48 as is until it is clear what will happen to § 78A-6-1108 with the Juvenile Court Act recodification.

*Monica Diaz moved pause on updating Rule 48 until the Juvenile Court Recodification Act is passed by the Legislature. Judge Lindsley seconded the motion, and it passed unanimously.*

**3. Discussion: Service by publication and Rule 18:** (Judge Lindsley & Bridget Koza)

Judge Lindsley discussed with the committee a recommendation from another juvenile judge to amend Rule 18, because the rule can be interpreted to only allow service by publication as the method of service when the parents cannot be located in termination of parental rights proceedings. Judge Lindsley took notice that Utah Code § 78A-6-109 addresses service by publication and asked the committee if this is something that needs to be changed or clarified. The committee discussed that very few people pick up newspapers anymore and that alternatives to service by publication, like Facebook messaging and emailing, have been requested. Matthew Johnson and Judge Lindsley noted that a website, Utahlegal.com, allows people to view notices by publication online. Matthew Johnson also stated that he has used the Utah Rules of Civil Procedure to argue for alternative methods of service in juvenile court when he could not locate the parents.

Judge Lindsley further discussed that with losing the Salt Lake Tribune and Deseret News as daily newspapers this is an issue the committee should be looking into but does not know whether there needs to be a statutory change to allow for alternative methods of service, like emails. Carol Verdoia discussed how § 78A-6-109 cross references § 45-1-101 and recommended that that more research should be done to figure out whether Rule 18 needs to be modified or if the statutes need to be modified.

*Judge Lindlsey requested that Meg Sternitzky and Xen Fedison research the issue of having service by publication through another manner than newspaper and David Fureigh requested that Bridget Koza add this issue to the agenda for the December 4, 2020 meeting.*

**4. Action: Venue Transfer and Rule 16:** (Janette White)

Janette White discussed with the committee recommendations to amend Rule 16 to reflect the statute being amended as part of the Juvenile Court Act recodification. The committee also discussed whether there should be one rule or separate rules to address venue transfer for delinquency and child welfare cases. The committee agreed Rule 16 should address venue transfer in delinquency cases, and there should be a Rule 16A added that will address venue transfers in child welfare cases. The committee then proceeded to discuss what districts are currently doing in practice regarding when and how cases are transferred. The committee also discussed possibly language to provide guidance on when the case should be transferred as well as allow for discretion.

*Janette White agreed to redraft Rule 16 to focus on child welfare cases and present at the December 4, 2020 meeting and Chris Yanelli agreed to redraft Rule 16 to focus on delinquency cases. Bridget Koza will also confirm with Larissa Lee, the Appellate Court Administrator, on what needs to be submitted for public comment. The committee agreed to put this on agenda at the December 4, 2020 meeting.*

**5. Discussion: Contempt of court and Rule 39:** (Bridget Koza)

Bridget Koza discussed with the committee whether they need to update Rule 39 to capture what is being repealed in § 78A-6-111(1) and §78A-6-1101(1) per the juvenile court recodification. Matthew Johnson proposed that the language in Rule 39 needs to reflect the language used in the statute; the statute refers to “any order of the court” while the current rule just references “the order.” Monica Diaz agreed that §78A-6-1101(1) refers to “any order,” which should be included in Rule 39. Carol Verdoia noted that § 78A-6-111(1) and §78A-6-1101(1) are being renumbered and that the language is being included elsewhere. § 80-1-105 and § 80-1-106 of the recodification have provisions about contempt.

*Bridget agreed to confirm whether the statutory provisions are going to be repealed before further discussion at the December 4, 2020 meeting.*

**6. Discussion: Petition contents and Rule 17:** (Bridget Koza)

Bridget Koza discussed with the committee whether they need to update Rule 17 to capture the parts that will be repealed as part of the Juvenile Court Act recodification. Carol Verdoia mentioned that the recodification is seeking to strike contents of petitions which is referenced in the rules.

*Bridget Koza proposed reviewing the proposed Juvenile Court Act recodification and updating the committee at the December 4, 2020 meeting. David proposed waiting to review Rule 17 until the Juvenile Court Act recodification is released, since it is difficult to proceed without every member having a copy of it. Bridget Koza will talk with Michael Dreschel to see whether the recodification can be sent to committee members.*

**7. Old business/new business:** (All)

The Committee discussed potential future agenda items:

- Monica Diaz moved to schedule the committee’s meetings in 2021. David Fureigh proposed continuing to hold the meetings on the first Friday of every month from 12 pm-2 pm with the exception of January and July – the January meeting will be held the second Friday of the month, January 8, and there will be no meeting held in July. The committee unanimously agreed to the schedule and Bridget Koza will send out email invitations.
- Bridget Koza also discussed with the committee Rule 26 and asked if the Rule needed to be updated since all minors are considered indigent. Monica Diaz

proposed the language “appointed counsel at all stages of the proceeding.”  
David Fureigh requested this item be put on the December agenda.

The meeting adjourned at 1:33 pm. The next meeting will be held on December 4, 2020,  
at 12:00 pm via Webex.