



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

**Approved Meeting Minutes**

December 4, 2020

Webex Meeting:

<https://utcourts.webex.com/utcourts/j.php?MTID=m2f9d3f32d3c5a5a1f32db9e8b4850c03>  
12:00 pm – 2:00 pm

*David Fureigh, Chair*

<b><u>Attendees:</u></b> David Fureigh, Chair Judge Mary Manley Judge Elizabeth Lindsley Arek Butler Monica Diaz Kristin Fadel Michelle Jeffs Matthew Johnson Sophia Moore Mikelle Ostler Jordan Putnam Janette White Carol Verdoia, Emeritus Member	<b><u>Staff:</u></b> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Xen Fedison, Juvenile Court Law Clerk  <b><u>Guests:</u></b> Jacqueline Carlton, Office of Legislative Research and General Counsel Representative Marsha Judkins, Utah House of Representatives Michael Drechsel, Assistant Court Administrator
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**1. Welcome and approval of the November 6, 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 November 6, 2020 meeting minutes. Monica Diaz seconded the motion, and it passed unanimously.*

**2. Discussion – Juvenile Interrogation and Rule 27A:** (David Fureigh)

Representative Marsha Judkins wanted to discuss with the committee the admissibility of statements by a minor and waiving their Miranda rights.

The committee first introduced themselves since it was Representative Judkins first time attending the committee's meeting.

Representative Judkins discussed that a concern about minors' waiving their Miranda rights during an interrogation given the science known about brain development. She has looked at other states' laws around the admissibility of a minor's statement including Indiana which generally does not allow for a minor to waive their Miranda rights unless the minor is emancipated; the parent/guardian is present, is not involved in the alleged crime, and is acting in the minor's best interest; or the minor's counsel is present.

The committee members summarized for Representative Judkins the discussion the committee had when working on Rule 27A, including reviewing articles about brain science, Utah's common law regarding the age of 14 creating a demarcation for a minor's ability to understand and waive certain rights, and statutes from other states. The committee did unanimously vote for the current version of Rule 27A.<sup>1</sup> Currently, every minor is appointed counsel who can assist with filing motions to suppress a minor's statements. Judge Lindsley extended an invitation for Representative Judkins to observe delinquency hearings. The committee appreciated Representative Judkins speaking with the committee members today.

**3. Discussion – Service by publication and Rule 18:** (Judge Lindsley, Meg Sternitzky & Xen Fedison)

Based the research memo provided by Meg Sternitzky and Xen Fedison, Judge Lindsley explained that the statute would need to be changed before the Rule 18 regarding service by publication could be amended. The statute is specific in how service by publication occurs.

*The committee agreed that changes to Rule 18 regarding service by publication will have wait until the statute is changed.*

**4. Action – Venue Transfer and Rule 16:** (Bridget Koza & Janette White)

Bridget Koza presented to the committee the revised Rule 16 that Chris Yannelli drafted. Rule 16 has been amended to reflect language about when and how delinquency case can be transferred. The language in Utah Code 78A-6-110(2) & (3) is not included in the draft Juvenile Court Act recodification bill. The committee discussed the internal court process for transferring case files and documents when a case is transferred between judicial districts. The committee agreed to add in language about the transferring court shall notify the receiving court of the case being transferred.

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<sup>1</sup> This sentence was changed to reflect discussion at January 8, 2021 meeting since the committee did unanimously vote to approve Rule 27A for final publication at the April 3, 2020 meeting.

*Judge Lindsley moved to present the revised Rule 16 to the Supreme Court to obtain permission to publish it for public comment. Sophie Moore seconded the motion, and it passed unanimously.*

Janette White discussed with the committee draft Rule 16A which addresses the transfer of non-delinquency cases since the language in Utah Code 78A-6-110(2) & (3) is not included in the draft Juvenile Court Act recodification bill. The committee discussed the practice around the state about how non-delinquency cases are transferred from one judicial district to another. The committee made changes to draft Rule 16A, including changing “initial permanency hearing” in paragraph (d) to “initial disposition hearing” and combining paragraphs (a) and (c) to state: “After the adjudication of a petition in a non-delinquency proceeding, the court may transfer the case to the district where the minor or parent resides so long as the court finds it is in the best interest of the minor.”

The committee discussed that venue language in Utah Code 78A-6-110 may be removed from the next draft Juvenile Court Act recodification bill so the committee will wait to review the next draft bill before moving forward with Rule 16A.

*The committee agreed that Rule 16A will be placed on the January 8, 2021 agenda. Bridget Koza will talk with Michael Dreschel about whether the venue language in Utah Code 78A-6-110 will be removed in the next draft Juvenile Court Recodification bill.*

#### **5. Discussion – Petition contents and Rule 17:** (Bridget Koza)

Bridget Koza reviewed with the committee amended Rule 17 to reflect language about what to include in a termination of parental rights petition. The language is not included in the draft Juvenile Court Act recodification bill. The amended language is from Utah Code 78A-6-505(1).

*Mikelle Ostler moved to present the revised Rule 17 to the Supreme Court to obtain permission to publish it for public comment. Janette White seconded the motion. The committee did not vote on the motion and Rule 17 will be placed on the January 8, 2021 agenda.*

#### **6. Action – Rights of minors in delinquency proceedings and Rule 26:** (Bridget Koza)

Bridget Koza reviewed with the committee amended Rule 26 to reflect legislative changes from the 2019 Indigent Defense Act. Bridget Koza discussed with the committee whether paragraph (e) conflicts with Utah Code 78B-22-204 regarding how a minor can waive the right to counsel.

*The committee agreed that Rule 26 will be placed on the January 8, 2021 agenda.*

#### **7. Discussion – Rule 45 and 46 – Disposition Reports:** (Bridget Koza)

Bridget Koza explained why Rules 45 and 46 were on the agenda. Utah Code 78A-6-115(4) has been stricken in the draft Juvenile Court Act recodification bill. Rules 45 and

46 address this subsection but do not include a reference to the documents the court can review in a termination of parental rights proceedings.

*The committee agreed that Rules 45 and 46 will be placed on the January 8, 2021 agenda.*

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

The Committee discussed potential future agenda items:

- Bridget Koza asked the committee whether the Juvenile Rules will need to be updated given that the new Juvenile Disposition Guidelines went into effect on December 1, 2020. Monica Diaz will see if any rules will need to be changed.

The meeting adjourned at 1:59 pm. The next meeting will be held on January 8, 2021, at 12:00 pm via Webex.