



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

Approved Meeting Minutes

David W. Fureigh, Chair

Location: Webex Meeting:
<https://utcourts.webex.com/utcourts/j.php?MTID=m60614e94398c691ccac151892d1f861d>

Date: May 7, 2021

Time: 12:00 pm – 2:00 pm

<p><u>Attendees:</u> David Fureigh, Chair Arek Butler Monica Diaz Kristin Fadel Michelle Jeffs Matthew Johnson Judge Elizabeth Lindsley Judge Mary Manley Sophia Moore Mikelle Ostler Jordan Putnam Janette White Chris Yannelli</p>	<p><u>Excused Members:</u> Carol Verdoia, Emeritus Member</p>
<p><u>Staff:</u> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Xen Fedison, Juvenile Court Law Clerk</p>	<p><u>Guests:</u> Christopher Williams, Office of Legislative Research and General Counsel</p>

1. Welcome and approval of the April 2, 2021 minutes: (David Fureigh)

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

Judge Manley moved to approve the April 2, 2021 meeting minutes. Monica Diaz seconded the motion, and it passed unanimously.

David had some announcements for the committee. The Supreme Court has created a consent calendar for their conferences so if there are rules have a technical change or just updating statutory references they can be added to the consent calendar. The Supreme Court approved Rules 12, 13, 27, 34 and 51 and will be effective September 1, 2021 and they also approved Rule 3 which will be sent out for public comment.

David also announced the change in employment for a couple of members: Monica Diaz has been nominated to be juvenile judge in the 3rd District and Michelle Jeffs has been hired as a professor at Weber State in their criminal justice department. Michelle will finish out her term on the committee.

2. Action: Supreme Court Conference Update: (David Fureigh)

David discussed feedback from the Supreme Court regarding Rules 8, 27A, and 55 from their April 23, 2021 conference. All three rules were sent back to address the Supreme Court's feedback that Rules 8 and 27A contain several substantive rights and duties while minimally addressing procedure (and the Supreme Court had minimal discussion about Rule 55 but had the same concerns as Rules 8 and 27A). The Supreme Court had specific feedback regarding paragraph c in Rule 8 with the two unless clauses was confusing and should be addressed. The Supreme Court also advised David to speak with the Rules of Evidence Committee to address Rule 27A and the admissibility of statements made by minors in an interrogation

The committee had a lengthy discussion about how to address the Supreme Court's feedback including whether to keep the language in the rules and just address the specific feedback regarding paragraph c in Rule 8 or whether to repeal some of the rules and just have references to the statute. The committee discussed that other groups, including police officers and detention facility staff, rely on the rules outside of attorneys and judges. The committee also reviewed the advisory committee note to Rule 8 that discusses that the rule was kept because the substantive rights were not in statute or administrative rules. The committee finally discussed about whether the language in Rules 8 and 27A is meant to address interrogations of minors or all interviews of minors. The language in the both rules and juvenile code recodification used the word "interview" but it appears to be primarily addressing interrogations.

Arek Butler motioned to changed paragraph c in Rule 8 to “interviewing and interrogating of a minor in detention are governed by Utah Code section 80-6-206.” Sophia Moore moved to table the motion for further discussion at the June 4, 2021 meeting.

The committee agreed to continue discussing Rules 8, 27A, and 55 at the June 4, 2021 meeting. Janette White left meeting at 12:58 pm.

3. Action: Rule 26: Rights of minors in delinquency proceedings: (Bridget Koza)

Bridget Koza discussed with the committee that they had previously approved amendments to Rule 26 to make it consistent with the Indigent Defense Act. Bridget noted that no comments were made during the comment period, and at the April 2, 2021 meeting, the committee discussed amending Rule 26 to include reference to a criminal information filed pursuant to Utah Code section 78A-6-103.5. The committee discussed amendment made at the April 2, 2021 meeting.

Monica Diaz moved to request that the Supreme Court approve Rule 26 (Draft April 2, 2021) for final publication on expedited basis to go into effect September 1, 2021. Chris Yanelli seconded the motion, and it passed unanimously.

4. Action: Rules 16: Transfer of delinquency case, 16A: Transfer of a non-delinquency proceeding, and 17: The petition: (Bridget Koza)

Bridget Koza discussed with the committee that they had previously approved amendments to Rule 16, 16A, and 17 to address parts of the juvenile code that were repealed in the juvenile code recodification. Prior to the rules going out for comment, Bridget updated the statutory references in Rule 17 to conform with the juvenile code recodification. The rules had gone out for comment and no comments were made during the comment period

Kristin Fadel moved to request that the Supreme Court approve Rules 16, 16A, and 17 (Draft March 10, 2021) for final publication on expedited basis to go into effect September 1, 2021. Michelle Jeffs seconded the motion, and it passed unanimously.

5. Action: Rule 44: Findings and conclusions: (David Fureigh)

The committee did not have time to discuss this agenda item as there were substantive changes to the language in the rule in addition to statutory references update due to the Juvenile Court Act Recodification and agree that the agenda item will be put on the June 4, 2021 meeting.

6. Discussion & Action: Rule 29A: Visual Recording of Statement or Testimony of Child Victim or Witness or Sexual or Physical Abuse – Conditions of Admissibility: (Kristin Fadel)

Kristin Fadel discussed with the committee impacts to Rule 29A from the 2021 Legislative Session and the proposed changes. Kristin noted a few statutory code changes due to the recodification (specifically changing references 78A-6-702 and 78A-6-703 to Title 80, Chapter 6, Part 5, Transfer to District Court) to but did not see any substantive changes. The committee discussed the update references.

Chris Yanelli moved to present the revised Rule 29A (Draft May 7, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Arek Butler seconded the motion, and it passed unanimously.

7. Discussion & Action: Rule 35: Pre-Trial Procedures: (Kristin Fadel)

Kristin Fadel discussed with the committee impacts to Rule 35 from the 2021 Legislative Session and the proposed changes. Kristin noted one statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update reference.

Monica Diaz moved to present the revised Rule 35 (Draft April 1, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Matthew Johnson seconded the motion, and it passed unanimously.

8. Discussion & Action: Rule 7: Warrants: (Michelle Jeffs)

The committee did not have time to discuss this agenda item as there were substantive changes to the language in the rule in addition to statutory references update due to the Juvenile Court Act Recodification and agree that the agenda item will be put on the June 4, 2021 meeting.

9. Discussion & Action: Rule 23A: Hearing on Factors of Utah Code Section 78A-6-703.3; Bind over to District Court: (Michelle Jeffs)

Michelle Jeffs discussed with the committee impacts to Rule 23A from the 2021 Legislative Session and the proposed changes. Michelle noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references.

Mikelle Ostler moved to present the revised Rule 23A (Draft March 29, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Sophia Moore seconded the motion, and it passed unanimously.

10. Discussion & Action: Rule 37: Child Protective Orders: (Judge Mary Manley)

Judge Manley discussed with the committee impacts to Rule 37 from the 2021 Legislative Session and the proposed changes. Judge Manley changed the reference to 78A-6-1111, which was repealed and moved into three new sections in the recodification, to “under the law” and also conformed the time requirement in paragraph (e) to new timeline in HB 255. The committee discussed the update references.

Sophia Moore moved to present the revised Rule 37 (Draft April 26, 2021) to the Supreme Court to obtain approval to publish it for public comment. Michelle Jeffs seconded the motion, and it passed unanimously.

11. Discussion & Action: Rule 21: Warrant of Arrest or Summons in Cases Under Utah Code Section 78A-6-703.3: (Sophia Moore)

Sophia Moore discussed with the committee impacts to Rule 21 from the 2021 Legislative Session and the proposed changes. Sophia noted the statutory code changes due to the recodification as well as possibly removing jail from paragraph c. The committee discussed leaving jail paragraph c, but changing the term to “correctional facility” and reordering so detention facility is listed second and correctional facility is listed third.

Chris Yanelli moved to present the revised Rule 21 (Draft May 7, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Arek Butler seconded the motion, and it passed unanimously.

12. Discussion & Action: Rule 29B: Hearings with Remote Conferencing from a Different Location: (Sophia Moore)

Sophia Moore discussed with the committee impacts to Rule 29B from the 2021 Legislative Session and the proposed changes. Sophia noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references as well as whether the types of hearings that can be completed remotely is still appropriate given the past year. The committee agreed to keep the list of hearings as is and the rule also allows flexibility to hold other hearings remotely.

Judge Lindsley moved to present the revised Rule 29B (Draft April 29, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Kristin Fadel seconded the motion, and it passed unanimously.

13. Discussion & Action: Rule 5: Definitions: (Mikelle Ostler)

Mikelle Ostler discussed with the committee impacts to Rule 5 from the 2021 Legislative Session and the proposed changes. Mikelle noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references including what references to include in the definition of disposition. The committee decided to just include a reference to 80-1-102 because that defines the disposition.

Sophia Moore left the meeting at 1:53 pm and Judge Lindlsey left the meeting at 1:55 pm. The committee will continue discussing this agenda item at the June 4, 2021 meeting.

14. Discussion & Action: Rule 30: Citations; Applicable Offenses and Procedures; Bail: (Mikelle Ostler)

The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.

15. Discussion & Action: Rule 9: Detention Hearings; Scheduling; Hearing Procedure: (Chris Yanelli)

Chris Yanelli discussed with the committee impacts to Rule 9 from the 2021 Legislative Session and the proposed changes. Chris noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references.

Arek Butler moved to present the revised Rule 9 (Draft April 13, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Michelle Jeffs seconded the motion, and it passed unanimously.

16. Discussion & Action: Rule 22: Initial Appearance and Preliminary Examination in Cases Under Utah Code Section 78A-6-703.3: (Chris Yanelli)

Chris Yanelli discussed with the committee impacts to Rule 22 from the 2021 Legislative Session and the proposed changes. Chris noted the statutory code changes due to the recodification to but did not see any substantive changes. The committee discussed the update references as well as having the formatting conform to the style guide.

Chris and Bridget will review Rule 22 and edit it so its format conforms to the style guide. This agenda item will be put on the June 4, 2021 meeting agenda.

17. Discussion & Action: Rule 47: Reviews and modifications of orders: (Bridget Koza)

The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.

18. Discussion & Action: Rule 45: Pre-disposition reports and social studies: (Sophia Moore & Matthew Johnson)

The committee did not have time to discuss this agenda item and it will be put on the June 4, 2021 meeting.

The meeting adjourned at 2:00. The next meeting will be held on June 4, 2021 at 12:00 pm via Webex.