



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: June 4, 2021

Time: 12:00 pm – 2:00 pm

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

1. Welcome and approval of the May 7, 2021 minutes: (David Fureigh)

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

David informed the committee that Monica Diaz resigned from the committee in May as she had been confirmed as a juvenile court judge. Today's meeting is Judge

Lindsley's and Judge Manley's last meeting. David acknowledged their contributions to the committee and thanked them for their service. David also informed the committee that the next meeting will be August 6, 2021 and may be meeting in person.

Michelle Jeffs moved to approve the May 7, 2021 meeting minutes. Judge Lindsley seconded the motion, and it passed unanimously.

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

Bridget Koza discussed with the committee that at the May 7, 2021 meeting the committee reviewed the proposed changes due to the juvenile code recodification and she worked with Chris Yanelli to have the rule conform to the style guide. Bridget reviewed the stylistic changes and the committee discussed the changes.

Judge Lindsley moved to present revised Rule 22 (Draft May 10, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Manley seconded the motion, and it passed unanimously.

3. Discussion & Action: Rule 43: Evidence (Judge Elizabeth Lindsley)

Judge Lindsley discussed with the committee impacts to Rule 43 from the 2021 Legislative Session and the proposed changes. Judge Lindsley noted the statutory code changes due to the juvenile recodification. The committee discussed the update references.

Matthew Johnson moved to present the revised Rule 43 (Draft May 5, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Lindsley seconded the motion, and it passed unanimously.

4. Discussion & Action: Rule 20: Discovery generally (Bridget Koza)

Bridget Koza discussed with the committee impacts to Rule 20 from the 2021 Legislative Session and the proposed changes. Bridget noted the statutory code changes due to the juvenile recodification, changing "Juvenile Court Act" to "Utah Juvenile Code," and changes to the numbering to conform with the style guide. The committee discussed the proposed changes.

Judge Lindsley moved to present the revised Rule 20 (Draft May 28, 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.

5. Discussion & Action: Rule 46: Disposition hearing (Bridget Koza)

Bridget Koza discussed with the committee impacts to Rule 46 from the 2021 Legislative Session and the proposed changes. Bridget noted the statutory code changes due to the juvenile recodification. The committee discussed the proposed changes.

Judge Lindsley moved to present the revised Rule 46 (Draft May 28, 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.

6. Discussion & Action: Rule 50: Presence at hearings (David Fureigh)

David Fureigh discussed with the committee impacts to Rule 50 from the 2021 Legislative Session and the proposed changes. David noted the statutory code changes due to the juvenile recodification along with stylistic changes to paragraph f to conform to changes the Civil Rules Committee made when incorporating this paragraph into Civil Rule 26. The committee discussed the proposed changes.

Judge Manley moved to present the revised Rule 50 (Draft May 28, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Lindsley seconded the motion, and it passed unanimously.

7. Discussion & Action: Rule 56: Expungement (David Fureigh)

David Fureigh discussed with the committee impacts to Rule 56 from the 2021 Legislative Session and the proposed changes. David noted the statutory code changes due to the juvenile recodification with updating paragraph a to conform with the statutory language so it is clear that expungement does not apply in abuse, neglect, dependency, or termination of parental rights proceedings. The committee discussed the proposed changes and suggested adding the word “delinquent” after “adjudicated” in paragraph a. Bridget will also made changes to paragraphs b and c to conform to the style guide.

Judge Lindsley moved to present the revised Rule 56 (Draft June 4, 2021) to the Supreme Court for approval to publish for public comment. Michelle Jeffs seconded the motion, and it passed unanimously.

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

Mikelle Ostler discussed with the committee that they had reviewed the proposed changes to Rule 5 at the May 7, 2021. The committee had agreed on the proposed changes to the statutory references but did not consider that the definition of ungovernability changed with the juvenile code recodification and no longer includes a

child who has run away. The committee discussed and approved removing “or has run away from home” in paragraph k.

Judge Lindsley moved to present the revised Rule 5 (Draft June 4, 2021) to the Supreme Court for approval to publish for public comment. Mikelle Ostler seconded the motion, and it passed unanimously.

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

Mikelle Ostler discussed with the committee impacts to Rule 30 from the 2021 Legislative Session and the proposed changes. Mikelle noted the statutory code changes due to the recodification as well as clarifying that court is “juvenile court” and clarifying in paragraph c that bail applies when a minor is cited under Utah Code section 80-6-302. The committee discussed bail is only allowed in certain circumstances for minors in juvenile court. The committee discussed and agreed to adding another paragraph to address when minors have a right to bail while in detention pursuant to 80-6-207.

Judge Lindsley moved to present the revised Rule 5 (Draft June 4, 2021) to the Supreme Court for approval to publish for public comment. Mikelle Ostler seconded the motion, and it passed unanimously.

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

Michelle Jeffs discussed with the committee impacts to Rule 7 from the 2021 Legislative Session and the proposed changes. Michelle noted the statutory code changes and language changes due to the recodification. The committee discussed the updated references as well as removing a reference to Utah Code section 80-6-201 in paragraph since that no longer deals with warrants. The committee also agreed to update the statutory references and language due to the legislative changes but will continue discussing at future meetings what statutory language needs to be included in the Juvenile Rules and what language does not.

Michelle Jeffs moved to present the revised Rule 7 (Draft June 4, 2021) to the Supreme Court for approval to publish for public comment. Janette White seconded the motion, and it passed unanimously.

11. Discussion & Action: 18: Summons; Service of Process; Notice: (Matthew Johnson)

Matthew Johnson discussed with the committee impacts to Rule 18 from the 2021 Legislative Session and the proposed changes. Matt noted the statutory code changes due to the recodification as well as discussed if line 80 should reference “parent,

guardian, or custodian” instead of “parent, parents, or guardian” since that would conform the language to other references in the Rule. The committee discussed the update references and proposed change to line 80. The Committee agreed to update the reference to “parent, parents, or guardian” in line 80 to “parent, guardian, or custodian.” Bridget also noted that “Juvenile Court Act” in line 77 needs to be updated to “Utah Juvenile Code” and update the references to Civil Rules to conform with the style guide.

Janette White moved to present the revised Rule 18 (Draft June 4, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Lindsley seconded the motion, and it passed unanimously.

12. Discussion & Action: Rule 60: Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion: (Matthew Johnson)

Matthew Johnson discussed with the committee impacts to Rule 60 from the 2021 Legislative Session and the proposed changes. Matt noted the statutory code changes due to the recodification as well as grammar change in paragraph h. Judge Lindsley had received feedback from another juvenile court judge about the time frames in paragraph d and they were update to say business day since under the current rule the time frame would include weekends and holidays. The committee discussed the proposed changes.

Matthew Johnson moved to present the revised Rule 60 (Draft May 26, 2021) to the Supreme Court for approval to publish for public comment. Judge Lindsley seconded the motion, and it passed unanimously.

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

Bridget Koza discussed with the committee impacts to Rule 47 from the 2021 Legislative Session and the proposed changes. Bridget noted the statutory code changes due to the recodification, updates to the formatting to conform with the style guide, updating the language regarding terminating parental rights in lines 62-63, and comments from Carol Verdoia about certain terms in Rule 47 including “intervention plan,” “progress reports,” and “disposition reviews.” The committee agreed to leave those terms in the rule because they are generic terms with definitions and the specific terms that DCFS, JJS, or Probation uses for terms in the rule changes a lot.

Judge Lindsley moved to present the revised Rule 47 (Draft April 29, 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.

14. Discussion & Action: Supreme Court Conference Update – Rules 8, 27A, and 55:
(David Fureigh)

The committee decided to place this agenda on the August 6, 2021 meeting so that we have a full committee in attendance and time to discuss what statutory language should be included in the rules and what language should not be included.

15. Discussion & Action: Rule 11: Time limits on detention orders: (Judge Elizabeth Lindsley)

Judge Lindsley discussed proposed changes with Rule 11 due to the 2021 Legislative Session and the updated statutory code changes due to the recodification. She also discussed changes involving minors who are diverted from detention after the Detention Risk Assessment Tool is completed. She explained that the diversion agreement entered into by the minor and parent/guardian when the minor is diverted from detention terminates 30 days after the agreement is entered into if a petition is not filed. The committee discussed the proposed changes and agreed that the diversion agreement must specify that it terminates after 30 days if a petition is not filed.

Judge Lindsley moved to present the revised Rule 11 (Draft June 4, 2021) to the Supreme Court for approval to publish for public comment. Judge Manley seconded the motion, and it passed unanimously.

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

David Fureigh discussed with the committee impacts to Rule 44 from the 2021 Legislative Session and the proposed changes. David noted the statutory code changes due to the recodification as well as Carol Verdoia's comments about if there needs to be clarity that abuse, neglect, and dependency proceedings require writing findings of fact at adjudication.

The committee did finish discussing this agenda item and agreed that the agenda item will be put on the June 4, 2021 meeting.

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

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the August 6, 2021 meeting.

18. Discussion: Rule 25: Pleas and Rule 25A: Withdrawal of Plea: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the August 6, 2021 meeting.

19. Discussion: Changes to Civil Rules 5, 7A, 7B, and 10 and Impact on Juvenile Rules: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the August 6, 2021 meeting.

The meeting adjourned at 2:00 pm. The next meeting will be held on August 6, 2021 at 12:00 pm via Webex.