



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: September 3, 2021

Time: 12:00 pm – 2:00 pm

Attendees: David Fureigh, Chair Judge Paul Dame Michelle Jeffs Matthew Johnson Jordan Putnam Mikelle Ostler Janette White Chris Yanelli Carol Verdoia, Emeritus Member	Excused Members: Arek Butler Kristin Fadel Judge Debra Jensen Sophia Moore
Staff: Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	Guests: Jacqueline Carlton, Office of Legislative Research and General Counsel

1. Welcome and approval of the August 6, 2021 Meeting minutes: (David Fureigh)

David welcomed everyone to the meeting. Bridget Koza introduced Savannah Schoon as the new juvenile court law clerk. David asked for approval of the minutes.

Judge Dame motioned to approve the minutes with the amendment to add in “21” after the word Rule in the second to last paragraph on page 3. Chris seconded the motion with the amendment and it passed unanimously.

2. Action: Rule 5: Definitions, Rule 7: Warrants, and Rule 50: Presence at hearings:
(David Fureigh)

David reviewed with committee that Rules 5, 7, and 50 were sent out for comment and no comments were received. David discussed approving the updated statutory references in the Rules for final publication since the Juvenile Code Recodification went into effect on September 1, 2021, and the committee can discuss substantive changes to these Rules at a later meeting.

Judge Dame suggested updating the statutory reference in line 5 from “80-3-301 et seq” to “Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings” because Utah Code section 80-3-301 deals with shelter hearings and the statutory reference should cite to whole chapter. He also suggested updating the statutory reference in line 6 from “80-4-101 et seq” to “Title 80, Chapter 4, Termination and Restoration of Parental Rights” so the statutory references in paragraph (a) are consistent. The committee discussed whether these changes would be consistent with the Supreme Court’s style guide for court rules. Bridget reported generally code cross references should be avoided unless they bring clarity, consistency, or controlling standards into rules and cross references should not cite to specific paragraphs. Bridget will send out the style guide to new members.

Judge Dame also discussed that proposed change to the definition of disposition in lines 19-20 could be confusing. The committee discussed whether the definition should be removed since the language is now in the Juvenile Code, but agreed to address this at a later meeting since other rules have definitions taken directly from statute. The committee discussed how to address the possible confusion. David suggested changing “pursuant to” to “as defined in” in line 19 so that there is clarity.

Chris Yanelli moved to present the revised Rule 5 (Draft September 3, 2021) with changes to the statutory references in lines 5-6 and changing “pursuant to” to “as defined in” in line 19 to the Supreme Court for final publication effective immediately. Janette White seconded the motion, and it passed unanimously.

The committee discussed whether Rule 7 can be finalized and sent to the Supreme Court for final publication. The committee agreed it could be finalized. Judge Dame and David both have potential substantive changes to Rule 7 regarding unsealing child welfare removal warrants and vacating runaway warrants in child welfare cases, respectively, that be discussed at a future meeting.

Judge Dame moved to request that the Supreme Court approve Rule 7 (Draft June 22, 2021) for final publication effectively immediately. Matt Johnson seconded the motion, and it passed unanimously.

David Fureigh discussed with the committee whether Rule 50 can be finalized for and sent to the Supreme Court for final publication. Bridget discussed Arek Butler’s proposed change in paragraph (f)(2)(A) – changing “presenting” to “being present” so that the change would align the language with Civil Rule 24 and match the intent of the original language in Rule 50. Judge Dame also discussed with the committee proposed changes to Rule 50 that would reformat paragraph (a) and remove language in paragraphs (b) and (c) since that language is directly from the statute. The committee agreed to discuss these proposed changes at a future meeting so that the statutory references in Rule 50 can be updated since the Juvenile Code recodification went into effect on September 1, 2021.

Matthew Johnson moved to present the revised Rule 50 (Draft September 3, 2021) with the change in paragraph (f)(2)(A) – changing “presenting” to “being present” – to the Supreme Court for final publication effective immediately. Judge Dame seconded the motion, and it passed unanimously.

3. Action: Rule 11: Time limits on detention orders: (David Fureigh)

David reviewed with committee that Rule 11 was sent out for comment and one comment was received. Judge Dame agreed with the comment and suggested two proposed changes: 1) adding “or a non-judicial adjustment is not entered into” to the end of the sentence on line 16 or 2) re-writing lines 14-16 to instead say “the diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a petition is not filed or a non-judicial adjustment is not entered into. The diversion agreement shall so specify.” The committee discussed background information regarding how diversion agreements occur, why the change was proposed initially, and if the Rule should just say that the diversion agreement terminate within 30 days without any qualifiers. Chris proposed a stylistic change to Judge Dame’s second proposed change – “The diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a non-judicial adjustment is not entered into or if a petition is not filed. The diversion agreement shall so specify.”

Judge Dame motioned to present the revised Rule 11 (Draft September 3, 2021) with the changes to lines 15-17, should state that “The diversion agreement shall terminate within 30 days of the diversion in lieu of detention if a non-judicial adjustment is not entered into or if a petition is not filed. The diversion agreement shall so specify” to the Supreme Court for approval to be sent out for additional 45-day comment period. Janette White seconded the motion, and it passed unanimously.

4. Action: Rule 60: Judicial bypass procedure to authorize minor to consent to an abortion: (David Fureigh)

David reviewed with committee that Rule 60 was sent out for comment and two comments received. The committee discussed why the changes were proposed initially in lines 16 and 17 and how Judge Lindsley has received feedback from another juvenile judge regarding the timeframes in lines 16 and 17 can be challenging to comply with. The committee asked Judge Dame to get more feedback from other juvenile judges to understand if other judges have experienced issues with the timeframes in lines 16 and

17. The committee also discussed how the timeframes have been in place for several years and given the language in current Rule 4 and previous versions, the timeframes in lines 16 and 17 have always included counting weekends and holidays.

The committee discussed removing the proposed changes to the timeframes in lines 16 and 17 for the time being so that the updated statutory references can be approved by the Supreme Court for final approval since the Juvenile Code recodification went into effect on September 1, 2021. The committee will discuss proposed changes to the timeframes at a future meeting once more information is gathered from the juvenile judges.

David and Bridget will reach out the ACLU and Planned Parenthood regarding the committee's agreement to remove the proposed changes to the timeframes in lines 16 and 17 for the time being.

Janette White moved to present the revised Rule 60 (Draft September 3, 2021) with the removal of the proposed changes in lines 16 and 17 – taking out the amendments of “business” – and present the updated statutory references to the Supreme Court for final publication effective immediately. Matthew Johnson seconded the motion, and it passed unanimously.

5. Discussion & Action: Rule 8: Rights of minors while in detention, Rule 27A:

Admissibility of statements given by minors, and Rule 55: Transfer of minors who present a danger in detention: (David Fureigh)

David reviewed with the committee feedback from the Supreme Court for Rules 8, 27A, and 55 regarding substantive provisions not being included in the Rules. The committee starting to discuss Rule 8 and which paragraphs were now incorporated into statute under Utah Code sections 80-6-205 and 80-6-206. The committee reviewed both sections and discussed that most paragraphs from Rule were incorporated into those sections except for paragraph (a).

The committee agreed to continue discussing this agenda item and agreed that the agenda item will be put on the October 3, 2021 meeting.

6. Action: Rule 37: Child Protective Orders: (Bridget Koza)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

7. 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 agreed that the agenda item will be put on the October 1, 2021 meeting.

8. Discussion: Amending Rule 7: Warrants to allow for ex parte motion to vacate runaway E-Warrants for youth in DCFS custody who have active warrants and have either returned to placed, aged out and DCFS custody is terminated, court jurisdiction is terminated, or new E-Warrant is needed: (David Fureigh)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the October 1, 2021 meeting.

9. 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 October 1, 2021 meeting.

10. 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 October 1, 2021 meeting.

The meeting adjourned at 2:03 pm. The next meeting will be held on October 1, 2021, at 12 pm via Webex.