



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

Approved Meeting Minutes

David W. Fureigh, Chair

Webex Meeting:
Location: <https://utcourts.webex.com/utcourts/j.php?MTID=m60614e94398c691ccac151892d1f861d>
Date: January 7, 2022
Time: 12:00 pm – 2:00 pm

<u>Attendees:</u> David Fureigh, Chair Arek Butler Judge Paul Dame Michelle Jeffs Judge Debra Jensen Matthew Johnson Jordan Putnam Mikelle Ostler William Russell Chris Yanelli Carol Verdoia, Emeritus Member	<u>Excused Members:</u> Kristin Fadel Sophia Moore Janette White
<u>Staff:</u> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	

<u>Guests:</u> Valentina De Fex, Staff Attorney, ACLU of Utah John Mejia, Legal Director, ACLU of Utah Jason Groth, Deputy Legal Director, ACLU of Utah Annabel Sheinberg, Vice President External Affairs, Planned Parenthood Association of Utah
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1. Welcome and approval of the November 5, 2021 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the November 5, 2021 meeting minutes. *William Russell moved to approve the November 5, 2021 meeting minutes. Judge Paul Dame seconded the motion, and it passed unanimously.*

David then discussed the proposed 2022 meeting schedule and reviewed that meetings will be held the first Friday of every month from 12-2 pm, excluding July. *The committee agreed to the proposed schedule. Bridget Koza will send out calendar invites for the meetings.*

2. Discussion: Rule 60: Judicial bypass procedure to authorize minor to consent to an abortion: (Judge Paul Dame)

David introduced guests from the ACLU of Utah and Planned Parenthood Association of Utah and committee members made introductions. David Fureigh provided background information for the committee's continued discussion on the time frame for judicial bypass hearings under paragraph (d). David reviewed with the committee that Rule 4 was amended in 2018 to mirror the computation of time in the Utah Rules of Civil Procedure to count weekends and holidays. This change to Rule 4 inadvertently changed the time frame under Rule 60, which requires the juvenile court to hear and resolve a judicial bypass petition within three days. David noted that, under the current rule, a hearing must be held Monday for a petition filed on Friday, which makes it difficult for the Guardian ad Litem to meet with the petitioner and for the court to resolve the petition. David additionally noted that Rule 60 does allow for a one-day extension. The proposed changes to Rule 60 would align the time computation with the pre-2018 changes to Rule 4.

Valentia De Fex, staff attorney at the ACLU of Utah, then spoke on the impact of the proposed rule change. Ms. De Fex stated that the committee should consider the appellate process and the steps a minor must take before a petition is filed. Ms. De Fex noted that these steps can delay the process of obtaining care and can impact the cost and the type of procedure a minor must undergo. Ms. De Fex suggested that these delays make it even more imperative petitions are resolved as expeditiously as possible. Ms. De Fex explained that minors have a constitutional right to these proceedings and the pro bono attorneys, who assigned to represent minors through their clinic, are specifically trained in both the state process and constitutional law.

Annabel Sheinberg, Vice President External Affairs, Planned Parenthood Association of Utah, provided additional details on the steps a minor must take. Ms. Sheinberg noted that a minor must: find a provider, find a judicial advocate, complete the state mandated module, and wait the statutorily required 72 hours before obtaining further care. Ms. Sheinberg additionally noted that an individual can only receive a medication abortion up to 11 weeks. Ms. De Fex also explained the role of pro bono counsel and that it takes additional days to assign pro bono counsel and for counsel to meet with the minor.

The committee then proceeded to have a lengthy discussion on the proposed rule change. Mikelle Ostler made a recommendation to have the forms committee revise the petition to include a section for a petitioner to indicate whether there is a need to have the petition heard expeditiously. David noted that the petitions have to be heard expeditiously under the rule and case law. David then made a recommendation to revise the time frame so there is at least one business day between the filing and the hearing. The committee also discussed how often guardians ad litem are appointed in these rare proceedings and their ability to communicate with the petitioner before the hearing. After further discussion on the frequency of these cases and the impact of the proposed rule change, the committee agreed to take David's recommendation under consideration. *The committee agreed to put this agenda item on the February 4, 2022 meeting and for Judge Paul Dame to draft proposed language based on David's recommendation. Judge Paul Dame also agreed to meet with the judge who suggested the rule change, and Matthew Johnson agreed to reach out to other guardians ad litem for additional input.*

3. Action: Rule 27A. Admissibility of statements given by minors; Rule 37. Child protective orders; Rule 45. Pre-Disposition Reports and Social Studies; and Rule 55. Transfer of minors who present a danger in detention: (Bridget Koza)

Bridget Koza reviewed with the committee that Rule 27A, 37, 45, and 55 went out for public comment on October 19, 2021. The comment period closed on December 3, 2021 and no comments were received. *Judge Dame motioned to present Rule 27A (Draft October*

1, 2021), Rule 37 (Draft October 1, 2021), Rule 45 (Draft October 1, 2021), and proposed repeal of Rule 55 (Draft October 1, 2021) to the Supreme Court for final publication effective immediately. Judge Jensen seconded the motion and it passed unanimously.

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

The committee continued to discuss proposed changes to Rules 25 and 25A. The committee first discussed Rule 25. Judge Paul Dame initially recommended changed “When denial is entered” to “When a denial is entered” in paragraph (b). The committee then proceeded to discuss Bill Russell’s proposal to Rule 25. In a January 6, 2021 email, Bill proposed adding a paragraph (e) to set forth a conceptual framework for a Rule 25(f) plea and for resolutions based on compliance or lack thereof. Bill Russell proposed the following language:

“If the court delays entry of a minor's plea as described in Utah Code Section 80-6-306(2), the court shall thereafter enter its finding as to whether or not the conditions of the delayed plea have been completed. Such finding may be entered upon the motion of any party or on the court's own motion, and after notice of and opportunity to be heard on the motion as described in these rules. Based on such finding, the court shall then proceed to modify the conditions, extend the time in which the minor may complete the conditions, enter the plea and proceed to disposition, or dismiss the petition.”

Judge Paul Dame commented that there would not be a consensus among judges regarding this issue and that it should be left to the judge’s discretion. Judge Dame also stated Utah Code Section 77-2a-4, on violations of please in abeyance agreements, can be used as procedural guidance.

Bill Russell then explained that, in his experience, the resolution of Rule 25(f) pleas have not been treated uniformly. Arek Butler and Mikelle Ostler also agreed that it would be better to have guidelines. The committee then had a lengthy discussion on the practice across the state and whether the procedure in Section 77-2a-4 should be followed, specifically, whether an affidavit needs to be filed with a motion. *The committee agreed to have Bill Russell, Judge Paul Dame, and Chris Yanelli work on proposed*

language for paragraph (e). The committee agreed to put this agenda item on the February 4, 2022 meeting.

Bridget Koza then reviewed with the committee the proposal to repeal Rule 25A. Judge Dame motioned to present the proposed repeal of Rule 25A (Draft January 7, 2022) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Michelle Jeffs seconded the motion and it passed unanimously.

5. Discussion: Rule 7: Warrants: (Janette White)

Bridget Koza prefaced the discussion on this agenda item. The committee did not have time to fully discuss the agenda item and agree that the agenda item will be put on the February 4, 2022 meeting.

6. Discussion: Civil Rules Changes and Impact on Juvenile Rules: (All)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the February 4, 2022 meeting.

7. Discussion: Rule 17: The Petition: (Judge Jensen)

The committee did not have time to discuss this agenda item and agreed that the agenda item will be put on the February 4, 2022 meeting.

The meeting adjourned at 2:03 pm. The next meeting will be held on February 4, 2022, at 12 pm via Webex.