



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

Approved Meeting Minutes

David W. Fureigh, Chair

Location: Zoom Meeting:
<https://us02web.zoom.us/j/87983394007?pwd=RE5qWIRsVjV6MUI2MHZGRnk1OTNkUT09>

Date: February 4, 2022

Time: 12:00 pm - 2:00 pm

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

1. Welcome and approval of the January 7, 2022 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the January 7, 2022 meeting minutes. *Judge Dame moved to approve the January 7, 2022 meeting minutes. Mikelle seconded the motion, and it passed unanimously.*

2. Action: Rule 8: Rights of minors while in detention: (David Fureigh)

David Fureigh reviewed with the committee that Rule 8 went out for public comment on November 18, 2021. The comment period closed on January 2, 2022, and no comments were received.

Michelle Jeffs motioned to present Rule 8 (Draft November 18, 2021) to the Supreme Court for final publication. Janette White seconded the motion and it passed unanimously.

3. Discussion: Rule 25: Pleas: (Bill Russell)

The committee continued their discussion of proposed changes to Rule 25 from the January 7, 2022 meeting. Bill Russell specifically discussed changes to paragraph (e) regarding the procedure for handling delayed admissions. The committee reviewed and considered the proposed change.

Bill Russell motioned to present the revised Rule 25 (Draft February 4, 2022) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Arek Butler seconded the motion and it passed unanimously.

As a side note, Chris Yanelli asked the committee about their experiences with how delayed admissions are handled under Juvenile Rule 25 when a minor completes certain conditions before the timeframe agreed upon. The committee discussed their experiences across the state and if delayed admission is an adjudication, which would

require compliance with the presumptive timeframes under Utah Code section 80-6-712.

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

David recapped the conversation from last meeting with the ACLU of Utah and Planned Parenthood Association of Utah. He discussed modifying the time frame in paragraph (d) so there is at least one business between the receipt of the petition and the hearing on the petition. Judge Dame proposed two options to modify the time frame in the first sentence of paragraph (d).

Matthew Johnson reached to the guardians ad litem in 3rd District to understand their experience with handling these petitions. The GALs start immediately working on these cases once appointed and there are challenges getting ahold of the youth before the hearing. Judge Dame spoke with a juvenile judge in 3rd District and clerical staff report that it can be challenging to get the hearing scheduled and a GAL appointed within three calendar days. Kirstin Fadel reported that for the GALs in 3rd District there is a delay in getting contact information for the youth from the ACLU, who typically represents the minors in these proceedings.

Judge Dame reviewed both options with the committee and the proposed change is an attempt to balance all the concerns presented to the committee. The committee agreed they like the second version so that the first sentence in paragraph (d) should be amended to read:

“Upon receipt of the petition, the court shall schedule a hearing and resolve the petition within three calendar days or two business days, whichever time period is longer.”

Matthew Johnson motioned to present the revised Rule 60 (Draft February 4, 2022) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Bill Russell seconded the motion and it passed unanimously.

5. Discussion: Rule 7: Warrants: (Janette White & David Fureigh)

David Fureigh provided the committee with background information for the proposed change to Rule 7 to allow the Division of Child and Family Services to file an *ex parte* motion to vacate a warrant for a child, who is missing, has been abducted, or has run away. There are situations when the warrant needs to be vacated before it is executed because the child has turned to their out-of-home placement, is no longer in DCFS' custody and court jurisdiction is terminated, or a new warrant has been issued for the child to be returned to a different location. Currently, DCFS seeks these warrants *ex parte* so the proposed change would allow them to vacate the motion *ex parte*.

Janette White proposed language to add a new paragraph (h):

“(h) The Division of Child and Family Services may file an *ex parte* motion to vacate a warrant issued for a child who is missing, has been abducted, or has run away pursuant to Utah Code Section 62A-4a-202.1 prior to a peace officer or a child welfare worker executing the warrant.”

The committee discussed whether there also needs to be proposed language allowing oral motions to vacate the warrants and the committee agreed that the Juvenile Rules allow attorneys to make oral motions during a hearing. The committee discussed stylistic and grammatical changes the proposed language and agreed that paragraph (h) should state:

“(h) Prior to a peace officer or a child welfare worker executing a warrant issued pursuant to Utah Code section 62A-4a-202.1 for a child who is missing, has been abducted, or has run away, counsel for the Division of Child and Family Services may file an *ex parte* motion to vacate the warrant.”

Judge Dame motioned to present the revised Rule 7 (Draft February 4, 2022) to the Supreme Court for approval to be sent out for an initial 45-day comment period. Janette White seconded the motion and it passed unanimously.

6. Discussion: Rule 17: The Petition: (Judge Dame)

Judge Dame discussed with the committee a proposed change to Rule 17 to include a requirement in paragraph (a) that the delinquency petition includes a sentence regarding the prosecutor's authority to file under Utah Code section 80-6-304. Another juvenile judge proposed the change since delinquency petitions are different throughout the state. The change would create consistency so petitions are clear regarding the prosecutor's authority to file it under Utah Code section 80-6-304. Judge Dame proposed the following language to add to paragraph (a):

“(3) The petition shall state the specific circumstance that allows the filing of the petition pursuant to Utah Code section 80-6-304.”

David suggested adding the language to subparagraph (2) rather than (3) for clarity. The committee discussed the language now included in delinquency petitions across the state and how its important for the judge and all parties to be aware of the conditions that statutorily permit the prosecutor to file the petition. Kristin Fadel suggested change the word “circumstance” to “condition” in the proposed language and the committee agreed.

The committee decided to review the proposed language and agreed to put this agenda item on the March 4, 2022 meeting.

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

Bridget Koza reviewed with the committee that there have been changes to the Rules of Civil Procedure and if these changes have any effect on the Juvenile Rules. Also, Juvenile Rule 2 states that Rules of Civil Procedure will apply as long as they are

not inconsistent with the Juvenile Rules, and Bridget mentioned that it might be worth it for the committee to consider amending Rule 2 to specifically state which Rules of Civil Procedure apply in Juvenile Court so there isn't confusion and given all the changes that have been made to the Rules of Civil Procedure. David Fureigh agreed, and suggested the Juvenile Court law clerks review the Civil Rules to see which rules conflict with the Juvenile Rules. Bridget stated that the project would need to start after the legislative session as the law clerks have other responsibilities. Carol Verdoia suggested that the committee start with one rule and analyze it at the next meeting, such as service of process rules. Bridget Koza suggested Civil Rules 7A and 7B since they were recently changed in May 2021.

The committee agreed to review Civil Rules 7A and 7B and compare them to the Juvenile Rules, in particular Juvenile Rule 39, for a discussion at the next meeting. The committee agreed that the agenda item will be put on the March 4, 2022 meeting.

As a side note, Judge Dame asked the committee about their experience with minors being placed on probation as a condition of the delayed admission. Chris Yanelli has seen that sometimes minors are placed on probation and sometimes they aren't. Bill Russell stated that typically in his cases the minor is placed on intake or formal probation as part of conditions for the delayed admission.

The meeting adjourned at 2:04 pm. The next meeting will be held on March 4, 2022, at 12 pm via Webex.