



**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=m04992c4de650dfc96b8d74ee97463541>

Date: March 4, 2022

Time: 12:00 pm - 2:00 pm

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

1. Welcome and approval of the February 4, 2022 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and committee members made professional practice disclosures as required by Rule 11-101 of the Supreme Court Rules of Professional Practice. David asked for approval of the February 4, 2022 meeting minutes.

Kristin Fadel moved to approve the February 4, 2022 meeting minutes. Arek Butler seconded the motion, and it passed unanimously.

David also discussed appointing a recording secretary with the committee. The committee can appoint a recording secretary under the rules and this individual can handle the meeting minutes and assist with preparing the agenda packets. David reviewed who can be appointed as recording secretary and asked committee members to think about individuals who could serve in the role.

The committee agreed to inform David and Bridget Koza of anyone interested in the position.

2. Discussion: Civil Rules 7A & 7B and impact on Juvenile Rules: (All)

David Fureigh reviewed with the committee that Civil Rules 7A and 7B change the procedure for orders to show cause. David commented that he liked these rules for child welfare proceedings but expressed concern that Juvenile Rule 39 allows for a more expedited procedure. Judge Dame agreed with this concern and noted that he did not think the committee needed to address the application of Civil Rules 7A and 7B in juvenile court since the timeframes in Civil Rules 7A and 7B are inconsistent with Juvenile Rule 39, and Rules of Civil Procedure that are inconsistent with Rules of Juvenile Procedure do not apply in juvenile court. Judge Dame additionally noted that Civil Rules 7A and 7B only provide that they are applicable in child protective order

cases. Matthew Johnson further commented that, in his experience, the rules would not apply in practice since orders to show cause are not typically filed in juvenile court.

Mikelle Ostler then asked the Committee whether the Rules of Juvenile Procedure provide a process for orders to show cause and, if not, whether it is needed. Judge Dame commented that he thought the procedure was implicit in the language of Juvenile Rule 39. Bridget and Arek Butler additionally commented that Juvenile Rule 39(b) talks about a motion to start a contempt proceeding.

David followed this discussion by asking the committee if they should make a list of rules that are in conflict with the Rules of Juvenile Procedure and whether the committee should change Juvenile Rule 2 to state that the “Rules of Civil Procedure do not apply unless they are specifically adopted by the Rules of Juvenile Procedure.” Judge Dame commented that amending Juvenile Rule 2 in this way would require a more in-depth discussion on whether the Rules of Juvenile Procedure should be independent or should incorporate other rules and proposed leaving Juvenile Rule 2 alone for the time being.

The committee agreed that the application of Civil Rules 7A and 7B did not need to be addressed and that no changes should be made to Rule 2 for the time being.

3. Discussion: Identification of Legislative Bills Requiring Rule Changes (All)

The committee discussed 2022 legislation that may require rule changes or consideration and noted the following legislation and its possible impact:

- **SB 85: Protective Order and Stalking Injunction Expungements.** David Fureigh noted that the bill may impact the Rules of Civil Procedure and conforming changes may be needed in the Juvenile Rules.
- **HB 248: Juvenile Amendments.** Bridget Koza noted that this second juvenile recodification changes references to 62A and that the references to 62A in Rules 12, 13, and 14 will have to be changed.

- **HB 299: Juvenile Justice Changes.** Bridget noted that this bill makes changes to bail and that the reference to bail in Rule 30 will have to be changed.
- **HB 277: Juvenile Competency Amendments.** Bridget noted that the rules should be reviewed to see if the bill implicates any of the rules.

The committee proposed assigning the bills and rules to committee members for review.

Chris Yannelli agreed to review HB 299 and Rule 30; Janette White and Mathew Johnson agreed to review HB 248 and Rules 12, 13, and 14; Jordan Putnam agreed to review SB 85 and the impact on the Juvenile Rules; Bill Russell agreed to review potential changes to Rules 51 and 27A; and Sophia Moore agreed to review whether HB 277 implicates the rules. This agenda item will be placed on the April 1, 2022 meeting to continue the discussion

4. Discussion: Discussion: Rule 37B: Hearings with remote conferencing from a different location (Bridget Koza)

Bridget Koza discussed with the committee a recommendation to change Rule 37B to model Rule 29B to allow for certain child welfare proceedings to be held remotely without requiring a motion. David reviewed with the committee that the committee had created Rule 29B to list specific delinquency hearings that can be held remotely, because minors have a constitutional right to attend some delinquency hearings in person whereas a parent does not have a constitutional right to attend child welfare proceedings. Rule 37B is intended to apply to all child welfare proceedings. The committee members agreed that they like Rule 37B, because it is permissive and gives the juvenile court discretion to determine whether any child welfare hearing should be held in person.

Judge Dame additionally noted that Utah Rule of Civil Procedure 43 provides guidance for remote testimony. The committee then discussed whether the Rules of Juvenile Procedure should include a remote hearing oath, similar to Utah Rule of Civil Procedure 43(c), regarding what a witness may or may not refer to during a hearing.

5. Discussion & Action: Rule 17: The petition: (Judge Dame)

Judge Dame reviewed with the committee the proposal to amend subsection (a)(2) of Rule 17 to provide that “The petition shall state the specific condition that allows the filing of the petition pursuant to Utah Code section 80-6-304.” Janette White relayed to the committee that AGs in her district were okay with this proposed change as long as CARE can adapt to this requirement. Michelle Jeffs expressed concern that the proposed change would drastically slow down the current process in Weber County. Judge Diaz remarked that the rule change conforms to the statute and that a prosecutor does not have the authority to file a petition if they cannot verify the reason for the filing. Judge Dame agreed and commented that any benefit of the change outweighs any inconvenience and additionally noted that it would not apply to felony cases. The committee then had a discussion on the process for reviewing and referring cases in the different counties but ultimately agreed that it would not be unreasonable to have a statewide practice to add a statement to the petition on why it is being filed. Judge Dame then recommended adding the language “for all non-felony-level offenses” at the beginning of the sentence. The committee agreed to this additional change.

Janette White motioned to send Rule 17 (Draft March 4, 2022) to the Supreme Court for an initial 45-day comment period. Sophia Moore seconded the motion. Michelle Jeffs objected to the motion, but the motion carried (10 in favor and 1 opposed).

6. Old/New Business (All)

The committee members discussed preference for returning to in-person meetings or continuing to have virtual meetings. Most members expressed interest in a hybrid model.

The meeting adjourned at 1:55 pm. The next meeting will be held on April 1, 2022, at 12 pm via Webex.