

Policy and Planning Committee

Executive Dining Room
Matheson Courthouse
450 S. State St.
Salt Lake City, Utah 84111

August 4, 2017

Members Present

Hon. Derek Pullan - Chair
Hon. Ann Boyden
Hon. Mary Noonan
Hon. Reed S. Parkin – by phone
Rob Rice

Members Excused

Hon. Marvin Bagley

Staff

Nancy J. Sylvester

Guests

Rick Schwermer
Jim Peters – by phone
Judge Reuben Renstrom – by phone

(1) Approval of minutes.

Judge Derek Pullan welcomed the members to the meeting. Judge Pullan welcomed new member, Rob Rice to the committee. Mr. Rice replaced John Lund on the Judicial Council. Judge Pullan then addressed the June 2, 2017 minutes. There being no changes to the minutes, Judge Mary Noonan moved to approve the minutes. Mr. Rice seconded the motion and it passed unanimously.

(2) New Rule. CJA 9-109. Presiding Judges in Justice Court.

Judge Pullan welcomed Jim Peters and Judge Reuben Renstrom, who appeared with Judge Parkin by phone. Mr. Peters explained the proposal to create Rule 9-109. Judge Parkin said the Board of Justice Court Judges requested the rule change and the Management Committee approved it in concept. Mr. Peters explained that there are currently 120 justice courts throughout Utah and a lot of local issues going on. Presiding judges representing each judicial district would help Mr. Peters better manage the individual courts, including in disciplinary matters. The rule covers how presiding and associate presiding judges are elected, the annual meetings, and the authority of presiding judges. The goal is to ensure that justice courts are following state statutes and our constitutions. Some duties would also include serving as liaisons with the media and other courts. Judge Noonan asked if there were any negative reviews of this proposal. Judge Parkin said this proposal has been mentioned several times and he has not heard any negative feedback. Judge Renstrom said he has only received one negative comment from a justice court judge. Judge Pullan asked what the concerns were. Judge Renstrom said the judge felt like it would allow for a “big brother” effect.

Jim Peters he has been handling issues that a presiding judge would normally be handling.

Judge Parkin noted that current court practice does not always follow statutes. Mr. Peters said the rule is modeled from the district court rule (Rule 3-104), with slight modifications to account for the differences in justice courts. Judge Pullan asked if this rule would allow for a caseload reduction to permit more time for a presiding judge's administrative work. Judge Parkin said this is not addressed in the rule because sometimes a judge would be a presiding judge and be the only judge in the court; thus their caseload could not be reduced. Judge Renstrom noted the justice court judges are very helpful with assisting other judges.

Judge Ann Boyden questioned how this would work politically when there are city councils or other political bodies that have to be answered to. Mr. Peters said he has not had any conversations at the city or local council levels. But he does not believe this would cause any concerns because this is an effort to improve judge's performance on the bench. Judge Renstrom said when ethical issues or opinions are brought forth the judges are quick to respond and train. He noted that if there is a need for a temporary judge then this will be addressed with the presiding judge. Mr. Peters noted that the local government does not typically get too involved in the justice courts' processes.

Rick Schwermer raised an issue with proposed section (3)(G). He thought it was redundant to the civil and criminal procedure rules that address judge disqualification. The committee discussed the term "temporary" in Utah Code section 78A-7-208 and how it would apply in this section. Judge Parkin noted temporary judges are appointed and approved by local city council. Judge Pullan requested clarification that this section would cover motions for disqualification. Mr. Peters and Judge Renstrom said it does and that they had had conversations with Ms. Sylvester about the need for this language. Judge Pullan stated Rule 63 of the Utah Rules of Civil Procedure and Rule 29 of the Utah Rules of Criminal Procedure address reassignments and agreed with Mr. Schwermer that the wording needs to mirror those rules if we keep the section. Mr. Peters said he could add references to those rules. Judge Pullan suggested taking this section out because it's procedural and not administrative. Mr. Schwermer agreed this would be a good idea since this issue is already covered in statute and our rules of procedure. Judge Parkin said he doesn't have a problem with removing this section. Mr. Schwermer asked if the effective date is still set for during the annual conference. Mr. Peters said he is looking for November 1 as an effective date, which would work with the justice court judges meeting. Mr. Schwermer said it would probably be best to have it effective right before the annual conference in the spring so that there isn't a gap with no presiding judges. Mr. Peters agreed.

Judge Parkin moved to send rule 9-109--with section (3)(G) being removed – to the Judicial Council for approval to send out for public comment. Judge Noonan seconded the motion and it passed unanimously.

(3) CJA 1-205. Standing and Ad Hoc Committees.

Ms. Sylvester addressed the proposal to amend Rule 1-205 and those on the phone were also asked to comment. She said the Standing Committee on Resources for Self-represented Parties proposes adding a member from the AOC Education Department as well as adding another justice court judge member. The Board of Justice Court Judges specifically requested another justice court judge. Mr. Peters said the reason behind this request is that the justice courts are the court level that is most involved with self-represented parties. Ms. Sylvester said Kim Free from the Education Department requested to be on the committee and the committee has so many issues that need to go back to her department that it made sense to add her. Judge Renstrom said having an educator liaison would be invaluable. Judge Noonan asked how has the education part been accomplished to date. Judge Parkin said educational videos or materials have not happened.

Judge Parkin moved to send Rule 1-205 to the Judicial Council for approval to send out for public comment adding the justice court judge. Judge Boyden seconded the motion and it passed unanimously. Judge Pullan asked the committee if there was a separate motion or recommendation for adding the educational representative. There was brief discussion on the current composition of the Self-Represented Parties committee members. Judge Pullan noted there is a consistent concern with increasing committee members. Judge Renstrom said the education department member could attend the meeting without becoming a member. Judge Noonan said she was not persuaded at this point that it is necessary to add another member.

(4) CJA 6-501. Reporting Requirements for Guardians and Conservators.

Ms. Sylvester discussed the proposal to amend Rule 6-501. She said these amendments were intended to mirror H.B. 214 (2017), which removed the requirement that co-guardians report to the court when at least one is a parent.

Judge Noonan moved to approve rule 6-501 to go to the Judicial Council for approval to send out for public comment. Mr. Rice seconded the motion and it passed unanimously.

(5) CJA 3-104. Presiding Judges.

Ms. Sylvester discussed the proposal to amend Rule 3-104, which came from Brent Johnson. Mr. Schwermer noted the Rules of Criminal Procedure committee is rewriting rule 7. He said the goal was to ensure justice court judges are being utilized fairly in magistrate rotations. Mr. Schwermer said in some areas judges are not used at all and

in some areas they are frequently used. Mr. Schwermer said the justice court administrator would be the person to discuss this with. Judge Pullan asked if a district court presiding judge can play a role in this process. Mr. Schwermer said yes they can. Judge Pullan felt comfortable with the rule as written.

Judge Noonan moved to send rule 3-104 to the Judicial Council for approval to send out for public comment. Judge Boyden seconded the motion and it passed unanimously.

(6) Other business.

Internal Operating Guide

Judge Pullan addressed the changes to the Policy & Planning Committee's Internal Operating Guide (the name was changed from "Bylaws"). Judge Boyden said she appreciated the structure it gave the committee. Judge Noonan said she had concerns about section 3 when the Policy and Planning committee declines to recommend a rule to the Council. Judge Noonan said it would be helpful to add a note about communications to the rule proposer.

Ms. Sylvester will make the amendments as discussed in the meeting.

P&P Rule Amendment Request Form

The committee discussed the proposed form. After brief discussion the committee agreed use of this form is acceptable at this time, with a small change of adding room in the box about explanation as to urgent requests. There was no motion made.

The next meeting is scheduled for September 1, 2017 in the council room at 12:00. There being no other business the meeting adjourned at 1:20 pm.