

UTAH STATE COURTS



Standing Committee on Children and Family Law

Update to the Judicial Council
November 20, 2023

Agenda

- Committee Organization
- Legislative Audit
- Looking Forward
- Request to Extend Committee
- Questions



Committee Organization - Membership

- Rule 1-205(1)(B)(v) of the Code of Judicial Administration calls for the following to serve on the committee:
 - (a) one Senator appointed by the President of the Senate;
 - (b) the Director of the Department of Human Services or designee;
 - (c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;
 - (d) one attorney with experience in abuse, neglect and dependency cases;
 - (e) one attorney with experience representing parents in abuse, neglect and dependency cases;
 - (f) one representative of a child advocacy organization;
 - (g) the ADR Program Director or designee;
 - (h) one professional in the area of child development;
 - (i) one mental health professional;
 - (j) one representative of the community;
 - (k) the Director of the Office of Guardian ad Litem or designee;
 - (l) one court commissioner;
 - (m) two district court judges; and
 - (n) two juvenile court judges.

Committee Organization - Subcommittees

- Special Master Procedures
- Administrative Rule for Domestic Special Masters
- Domestic Case Procedures Improvement



Legislative Audit

- A Performance Audit of Child Welfare During Divorce Proceedings was released in August 2019
- It concluded that:
 - “Child Protections Appear Reasonable, Triage May Further Improve Protections” and
 - “Training Requirements Vary by Expert, Special Masters’ Role Needs Clarification”
- Most of the audit’s recommendations were referred to the Committee for discussion and possible implementation

Audit Recommendation 2.1

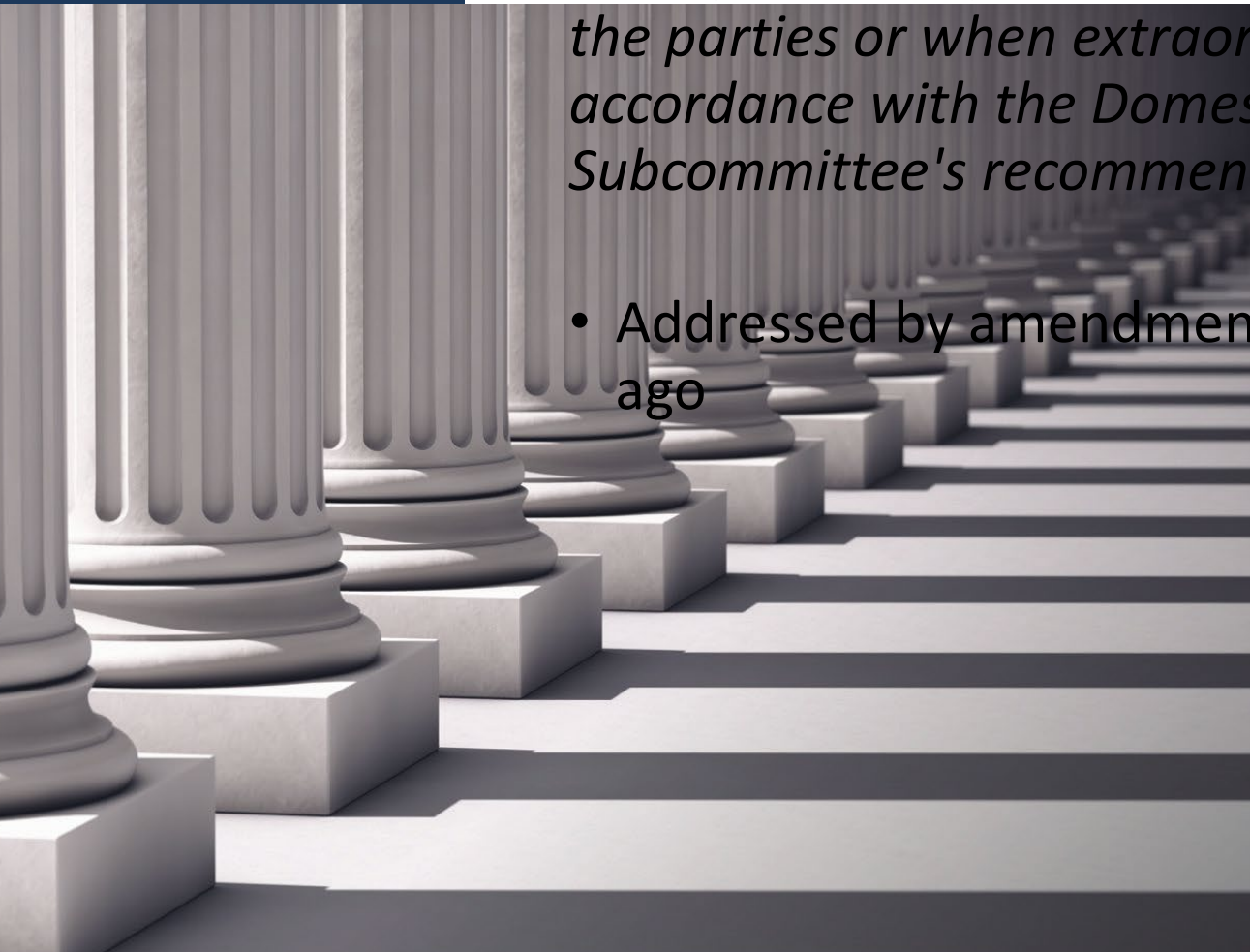
We recommend that the Division of Child and Family Services work with the Court's Standing Committee on Children and Family Law and eventually the Judicial Council to review whether it would be beneficial to require a referral to the Division of Child and Family Services when a standard protective order involving children is requested in district court.

- DCFS is supportive of receiving these calls, notwithstanding any fiscal impact, provided there is no mandate that they investigate any case that does not meet their standard screening criteria (in R512-205-4)
- The committee consulted with other stakeholders, however, who feel strongly that this recommendation should not be implemented.

Audit Recommendation 2.2

We recommend that the Judicial Council amend Utah Court Rule to allow for custody evaluations to be ordered only at the request of the parties or when extraordinary circumstances warrant it in accordance with the Domestic Case Processing Improvement Subcommittee's recommendation.

- Addressed by amendments to Rule 4-903, which took effect a year ago



Audit Recommendation 2.3

We recommend that the Administrative Office of the Courts in consultation with the Court's Standing Committee on Children and Family Law and eventually the Judicial Council study the outcomes of their triage pilot sites and if the data demonstrates that triage is effective at reducing divorce disposition lengths and improving family outcomes, expand the program to other districts.

- Addressed by a new URCP 100A, which also took effect a year ago
- Divides domestic relations actions into one of three tracks:
 1. Standard Track
 2. Complex Discovery Track
 3. Significant Custody Dispute Track
- Insufficient data exists at this point to assess the effectiveness of this change, but the Committee is interested in tracking it

Audit Recommendation 3.1

We recommend that the Judicial Council enact a rule enabling the Administrative Office of the Courts oversight of custody evaluators, parent coordinators, and special masters.

- Some of these professionals must be licensed through DOPL, but the Standing Committee on Children and Family Law does not believe that provides sufficient oversight
- That said, this is a shrinking pool of professionals and the committee is reluctant to scare anyone off
- The committee is currently working on URCP 53 Masters, which does not provide clear guidance on how they should be used in family law settings
- One subcommittee is working on qualifications of Special Masters, while another is working on administrative aspects

Audit Recommendation 3.2

Following Judicial Council's rule, we recommend that the Administrative Office of the Courts implement a roster of vetted custody evaluators, parent coordinators, and special masters.

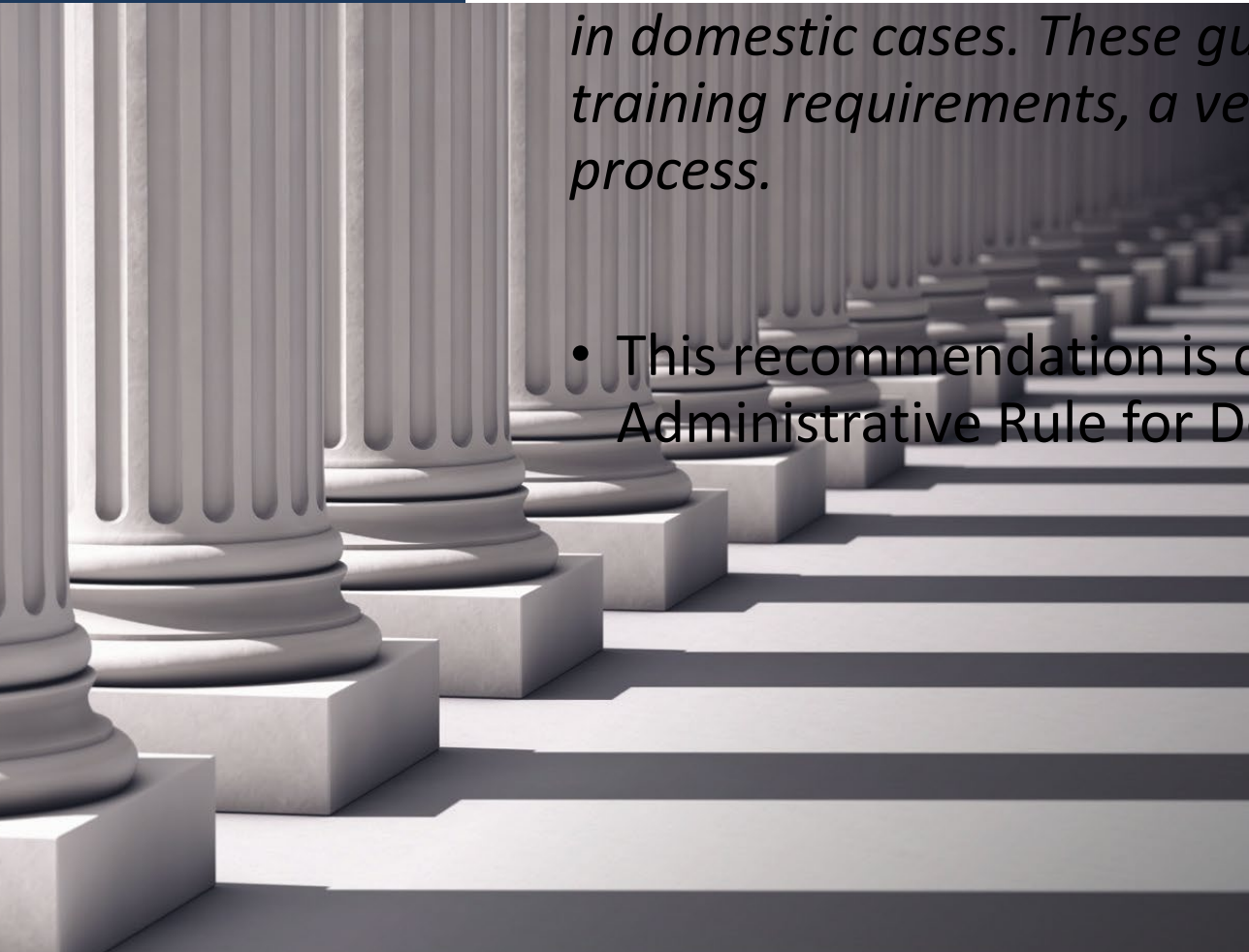
- Amendments to be proposed for UCRP 53 could address this recommendation, but funding from the Legislature may be necessary to implement the development and maintenance of the roster



Audit Recommendation 3.3

We recommend that the Judicial Council or Supreme Court adopt guidelines in Court Administrative Rule for the use of special masters in domestic cases. These guidelines, at a minimum, should include training requirements, a vetting process, and a post-evaluation process.

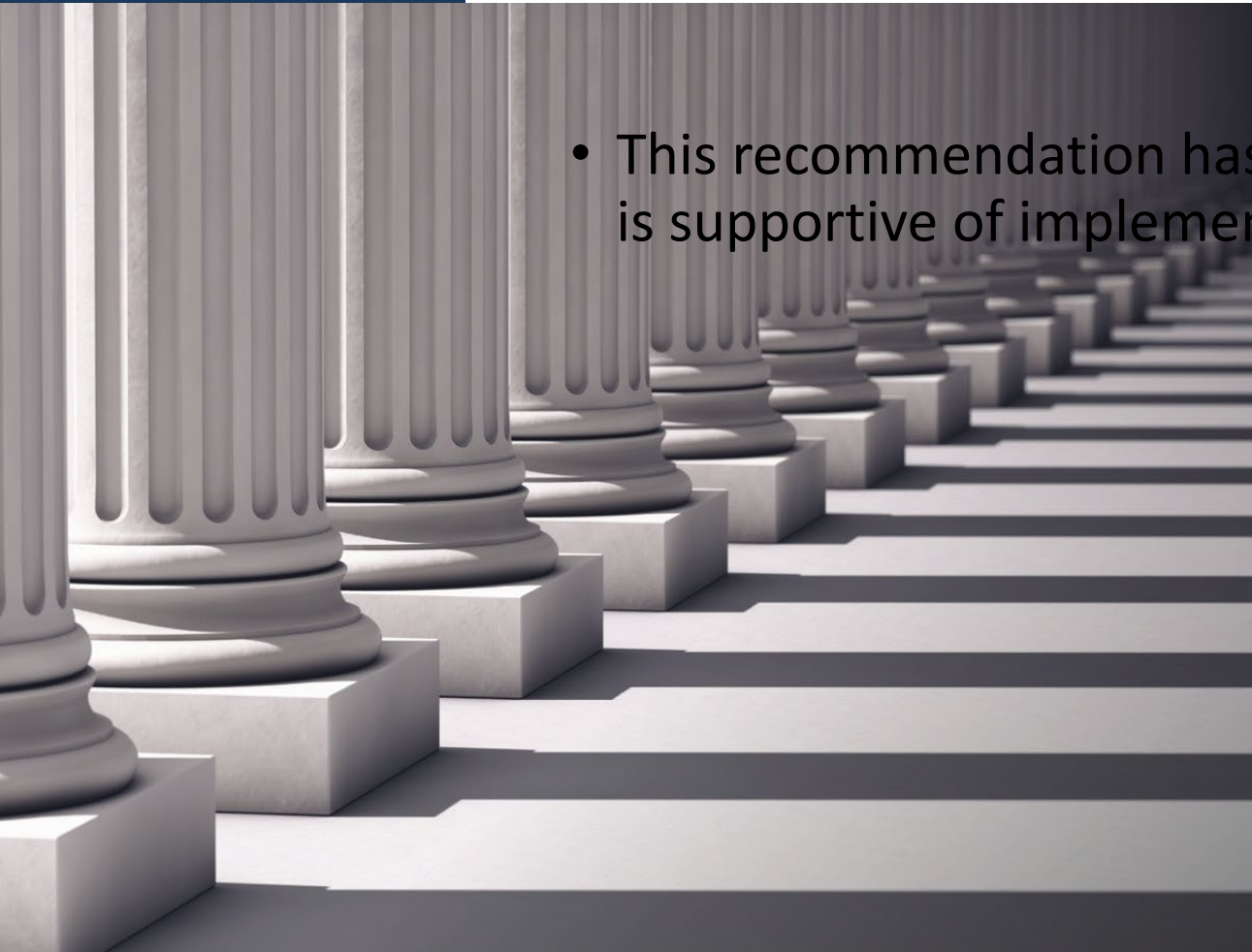
- This recommendation is currently being addressed by the Administrative Rule for Domestic Special Masters Subcommittee



Audit Recommendation 3.4

We recommend that the Administrative Office of the Courts track special masters in the court database system (CORIS).

- This recommendation has yet to be addressed, but the Committee is supportive of implementing it.



Looking Forward

- Continue to work on rules that will address the use of Special Masters in Domestic Cases
- Review data on URCP Rule 100A to see if it's working
- Explore concurrent jurisdiction between the district and juvenile court in certain cases
- Continue to assess needs and identify deficiencies, at both the local level and statewide, to improve the processes and outcomes for our patrons

Request to Extend the Committee

- The Judicial Council authorized the creation of the Committee on Children and Family Law in December 1999
- In June 2011, the Council reauthorized the committee for six years
- And in November 2017, the Council reauthorized the committee for another six years
- At some point, the Committee on Children and Family Law was added to the list of Standing Committees in Rule 1-205(1) of the Code of Judicial Administration
- Even so, as the six-year extension approved in November 2017 will expire this month, the Committee is requesting that it be extended indefinitely

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Questions?