

# Utah Rules of Juvenile Procedure Committee- Meeting Minutes

August 1, 2014

Noon to 2:00 p.m.

Executive Dining Room

MEETING DATE

TIME

LOCATION

<b>MEMBERS:</b>	Present	Absent	Excused	<b>MEMBERS:</b>	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Paul Wake	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narda Beas-Nordell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>AOC STAFF:</b>	Present	Excused		<b>GUESTS:</b>	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Emily Iwasaki	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

## AGENDA TOPIC

<b>I. Welcome &amp; Approval of minutes</b>		<b>CHAIR: CAROL VERDOIA</b>
<p>Carol Verdoia introduced new member, Mikelle Ostler, who is replacing Joan Carroll as the Clerk of Court representative. Members completed the disclosures required by Rule 11-101 of the Supreme Court's Rules of Professional Practice. The minutes of June 6, 2014 were approved.</p>		
Motion: To approve the minutes of June 6, 2014 as written.	By: Alan Sevison	Second: Debra Jensen
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

## AGENDA TOPIC

<b>II. Proposed Rules 29B and 37B: Remote Access to Court Hearings</b>	<b>CAROL VERDOIA</b>
<p>The committee continued its discussion of proposed Rule 29B: Hearings with contemporaneous transmission from a different location. The committee did not discuss proposed Rule 37B and held this discussion over to the next meeting.</p> <p>After the June meeting, Tim Shea created an updated draft of Rule 29B which was circulated to committee members for discussion. Subparagraph (a) contains hearings in which the minor or the minor's parent guardian or custodian may attend by a contemporaneous transmission from a different location and no waiver is required. Subparagraph (b) contains hearings in which they must waive attendance in person and subparagraph (c) addresses witnesses.</p> <p>Judge Lindsley suggested that subsection (a)(3) should read only "motion" and not "law and motion." Discussion followed regarding the importance of attendance at hearings pertaining to certification to district court and preliminary hearings listed in subsections (b)(3) and (b)(7), respectively. Points of discussion included whether the serious nature of certification cases should preclude waiving the right to be present; the impact on the court's general power to grant a motion for exceptional</p>	

circumstances and clarifying whose right it is to assert a waiver (parent or child).  
Moving an item to the list that says you can't waive takes away discretion

**MOTION: Judge Lindsley made a motion to revised Rule 29B as follows: In section (a)(3) delete "law and" and revised paragraph (b) to read "Except as provided in paragraph (a), upon motion of a party and for good cause shown, the court may conduct any delinquency hearing or hearing under Section 78A-6-702 or Section 78A-6-703 with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location if the minor or the minor's parent, guardian or custodian waives attendance in person." The remainder of paragraph (b)(1) through (b) (11) containing the list of hearing types is deleted. Alan Sevison seconded the motion and it passed unanimously.**

The committee then engaged in a discussion on the issue of waiver, noting that both the parents and the child have independent rights to be present. While they cannot waive for each other, the child's attorney can file a motion for a parent asking to waive the parent's attendance and attach an affidavit signed by the parent. Alan Sevison proposed the following language: "Except as provided in paragraph (a), upon motion of a party and for good cause shown the court may permit a party or a minor's parent, guardian or custodian to attend any delinquency hearing or any hearing under Section 78A-6-702 or Section 78A-6-703 by contemporaneous transmission from a different location." Mr. Sevison agreed to review the language further and send any proposed changes to Katie Gregory for circulation prior to the next meeting.

#### AGENDA TOPIC

<b>III. Impact of 78A-6-1111 on Rule 37(d)</b>	<b>BRENT HALL</b>
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Brent Hall provided an overview of recent revisions to 78A-6-1111 on the ability to appointment of defense counsel in child protective order proceedings. The revisions prohibit the appointment of defense counsel for a parent or legal guardian in any action initiated by a private party, which potentially includes child protective orders. The committee will continue discussion of this issue at its next meeting.

All remaining items on the agenda were held over to the next meeting. The next meeting was scheduled on Oct 3, 2014 from noon to 2:00 p.m.