

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

January 27, 2012

Noon to 2:00 p.m.

Judicial Council Room

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Narda Beas-Nordell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diane Abegglen	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brent Bartholomew	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Paul Wake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joan Carroll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sterling Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Absent		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Alison Adams-Perlac	<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

I. Welcome & Approval of minutes		CHAIR: CAROL VERDOIA	
Corrections to the Minutes: None			
Motion: To approve the minutes of December 2, 2011 as written.	By: Judge Lindsley		Second: Narda Beas-Nordell
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____		

AGENDA TOPIC

II. Continued Discussion of Impact of New Civil Discovery Rules on URJP	[PRESENTER] ALAN SEVISON
Alan Sevison prepared a handout highlighting the Rules of Juvenile Procedure that may be impacted by the new Civil Discovery Rules. Katie Gregory distributed copies of proposed revisions to URJP 20A, which she created based on Alan's handout.	
MOTION: Alan Sevison made a motion to add a new sentence to Rule 20A(c) after the reference to URJP 45 which states "Failure to attend or to serve a subpoena shall be governed by Rule 30(g)." After discussion he withdrew the motion.	
MOTION: Alan Sevison made a motion to remove the third sentence of URJP 20A (c) which states "The attendance of witnesses may be compelled by subpoena as provided in Utah R. Civ P. 45." David Fureigh seconded the motion. Alan explained that the sentence was not necessary because the identical reference is contained in URCP 30. URCP 30 was revised to state that non parties may be subpoenaed. Discussion followed regarding: 1) whether party and non party witnesses must be subpoenaed, and 2) how incorporating certain rules of procedure could impact the child welfare timelines.	

Friendly Amendment: Judge Lindsley made a friendly amendment to the motion. She proposed the sentence be retained, but moved to a separate subsection 20A(m) and reworded to state "Subpoenas are governed by URCP 45." Alan accepted the friendly amendment and the Motion passed unanimously.

In addition to the disclosure included in URCP 26, URCP 26.1 controls disclosures and discovery in domestic relations cases. The committee discussed whether child welfare cases are technically included in "domestic relations" cases and, therefore, Rule 26.1 compliance would be mandatory in juvenile proceedings. It was noted, however, that Rule 26a disclosures do not apply to agencies of the state.

The committee agreed that additional study is needed concerning: 1) the applicability of URCP 26.1 to juvenile proceedings; and 2) whether the new discovery rules contain additional areas of concern.

Action Items:	<p>Katie Gregory will provide a new draft of URJP 20A for the next meeting, updated with today's motion.</p> <p>Alan Sevison will research the applicability of URCP 26.1 to the URJP.</p> <p>Brent Hall will review URCP 26 and determine which provisions would normally apply to juvenile proceedings.</p> <p>Sterling Corbett will bring feedback from other GALs.</p> <p>Members will discuss with their respective disciplines the question of when discovery times should begin to run.</p>
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AGENDA TOPIC

III. Impact of <u>In re AHF</u> on Rule 23(a)(3)	[PRESENTER] JUDGE ELIZABETH LINDSLEY
<p>Judge Lindsley gave an overview of the recent ruling in the <u>In re AHF</u> case pertaining to hearings to certify a juvenile as an adult. At the time of the hearing, Probation prepares a report and submits it to the court. In <u>AHF</u> the report contained hearsay and the case was remanded to determine whether the court would still certify the youth if it did not consider the hearsay contained in the report.</p> <p>URJP 23 states that the Utah Rules of Evidence apply to certification hearing. Judge Lindsley polled the juvenile judges regarding whether the reference to the URE should be retained in URJP 23 or stricken. The responses were split. A third suggested was to change URE 11.01 to state that reliable hearsay can be used in certification hearings, preliminary hearings and Serious Youth Offenders proceedings. Neither the juvenile judges nor the committee reached a consensus on which of the three options would be preferable.</p> <p>Judge Steele suggested the committee do additional research and discuss the rule at a later meeting. Pam Vickrey sent the question to a national juvenile list serve and asked states whether they applied the rules of evidence. She reported that Idaho applies the rules of evidence and Wisconsin does not. Carol Verdoia asked members to send Katie Gregory an email if they would like to put the issue back on the agenda at a future meeting.</p>	

AGENDA TOPIC

IV. Old or New Business	[PRESENTER] ALL
<p>1) Paul Wake asked Katie Gregory to review the minutes of December 2, 2011 and determine whether the proposed revisions to Rules 23 and 23A were accurately reflected in the minutes.</p> <p>2) The next meeting was set for Friday, March 2, 2012 from 11:00 a.m. to 1:00 p.m.</p>	