

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

March 26, 2010

Noon to 2:00 p.m.

Conference Rooms B & C

MEETING DATE				TIME			LOCATION		
MEMBERS:				Present	Absent	Excused	MEMBERS:		
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	David Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Narda Beas-Nordell	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Angela Fannesbeck	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pam Vickery	<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"/>		
Renee Jimenez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
AOC STAFF:				Present	Absent	GUESTS:			
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			
Whitney Kania	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>			
Matty Branch	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			

AGENDA TOPIC

I. Welcome & Approval of minutes		CHAIR: CAROL VERDOTA	
Corrections to the Minutes: None			
Motion: To approve the minutes of February 5, 2010 as written.	By: Renee Jimenez	Second: Narda Beas-Nordell	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

AGENDA TOPIC

II. Notice of Publication in Termination of Parental Rights Actions	[PRESENTER] BRENT BARTHOLOMEW
<p>Discussion: Brent Bartholomew presented proposed revisions to URJP 18(c) regarding service by publication, which were included in the meeting materials. The committee discussed the revisions and the following related issues:</p> <ul style="list-style-type: none"> • Whether an individual should be identified as either a "father" or "parent" until paternity has been established. In some circumstances alleged fathers are given notice by publication. • The language contained in Section 78A-6-109 regarding who shall receive a summons (contemplating notice to "parents, guardian or custodian"). The Juvenile Court Act contains more specific language regarding publication than URCP 4. • Brent Hall mentioned the impact of new rules on divorce proceedings and the requirement to list only children's initials in divorce proceedings. CJA 4-202.02(4) (O) designates court records which are private. In most case types, this includes the minor's name. <p>A motion was made to adopt revised Rule 18(c) as follows:</p>	

(c) Service by publication. Service by publication shall be authorized by the procedure and in the form provided by the Juvenile Court Act and Utah Rule of Civil Procedure 4 except within the caption and the body of any published document, children shall be identified by their initials and respective birth date, and not by their names. The parents, parent, or guardian of each child shall be identified as such using their full names within the caption of any published document.

Carol noted that the publication section of 78A-6-109(13) also requires that publication be completed in accordance with section 45-1-101. Section 45-1-101 was modified last year to require, beginning January 1, 2010, publication be included on a website established by the collective efforts of Utah's newspapers. The website is: www.utahlegals.com.

Action Item:	Katie Gregory will forward the revised rule to Tim Shea to be published for public comment.	
Motion: To adopt Brent Bartholomew's proposed revisions to URJP 18c as revised italics above.	By: Judge Steele	Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

III. Board of Juvenile Court Judges Request to Consider Fax Filing Rule-Results of Survey of Juvenile Judges	[PRESENTER] JUDGE LINDSELY
Discussion: Judge Lindsley reviewed the results of her survey of the juvenile judges. The juvenile bench did not reach a consensus as to whether a fax filing rule is needed. Some judges opposed a uniform fax filing rule and others asked to opt-out if a rule is created. After discussion, committee members agreed to recommend that a statewide fax filing rule not be issued for juvenile court and agreed to focus instead on E-filing rules, while allowing individual districts to handle fax filing under local rules.	
Action Item:	Judge Lindsley will email her survey results and the committee's recommendations to all juvenile judges. Katie Gregory will present Judge Lindsley's email message to the Board of Juvenile Court Judges at a future meeting.

AGENDA TOPIC

IV. Consent by Parent/Guardian/Custodian Prior to Juvenile's Waiver of Constitutional Rights if Interrogated by Law Enforcement	[PRESENTER] CAROL VERDOIA
Discussion: Carol reviewed the committee's earlier discussions on the issue of consent prior to a juvenile's waiver of constitutional rights at the time of interrogation by law enforcement. H.B. 239 created section 62-4a-415 prohibiting the division from consenting to the interview of a child in the division's custody by a law enforcement officer, unless consent is obtained from the child's GAL. The new section does not apply unless the child has a GAL, and only youth in DCFS custody will be impacted by H.B. 239. In a recent case, one of the juvenile judges ruled that DCFS did not have the authority to consent for the youth.	
Carol suggested that the committee review HB 239 at the next meeting and factor the new provisions into the waiver questions discussed previously. Carol asked Katie Gregory to send out copies of HB 239, the rule questions previously submitted by JJS, and the waiver forms received	

from Susan Eisenman. Other concerns discussed by the committee were:

- The situation in which a child is interviewed as a victim, but then makes a disclosure in the process of the interview.
- The interview of youth who do not have a GAL because they came into DCFS custody due to delinquency issues.

Action Item:

Prior to the next meeting, Katie Gregory will send out H.B. 239 and documents from previous discussions for review. Katie will also invite Susan Eisenman to the next meeting to join the discussion.

AGENDA TOPIC

V. Old Business/New Business	[PRESENTER] CAROL VERDOIA; PAUL WAKE
Discussion:	
<p><u>Old Business:</u> Carol will meet with the Supreme Court on April 14th regarding URJP 3, 25A and 36, which are ready for final action. Regarding Rule 25A, she asked committee members to email her with information and examples of when "further disposition under advisement" has been problematic to assist her in demonstrating the need for a rule on withdrawal of pleas.</p> <p><u>New Business:</u> Utah Rule of Criminal Procedure 15A was released this winter through the emergency rule making process. A Rule of Criminal Procedure only applies in Juvenile Court if it is specifically adopted. Paul Wake encouraged the committee to consider adopting the criminal rule or creating a juvenile counterpart. He addressed a concern regarding invoking confrontation clause rights pertaining to reports sufficiently before trial. The committee discussed the impact of adopting URCrP 15A in the juvenile rules. One concern is the juvenile time frames for trial may be shorter than the 30 day timeframes for filing a written demand with the court set forth in URCrP 15(b).</p> <p>Carol Verdoia announced that Matty Branch will be retiring on April 23, 2010. Carol and the committee members thanked Matty for her service to the committee.</p>	
Action Item:	Katie Gregory will send Paul Wake's memo on URCrP 15 to committee members prior to the next meeting for review and comment. Carol will review prior discussions and send out information to be considered for the next meeting.

AGENDA TOPIC

VI. Set Next Meeting	[PRESENTER]
The Committee will meet again on July 9 th and August 6 th from Noon to 2:00 p.m.	