## Utah Rules of Juvenile Procedure Committee- Meeting Minutes

TIME

Noon to 2:00 p.m.

**Executive Dining Room** 

Present Absent Excused

LOCATION

May 4, 2012

MEETING DATE

MEMBERS: Present Absent Excused MEMBERS:

Agenda Topic   Agenda Mans-Perlac   Agenda Basa-Nordell   Agenda	Judge Elizabeth Linusley	l L					$\simeq$	l	Di Cill Hall			ļ	Ш	Į		
Pam Vickrey	Judge Larry Steele	Ī					$\overline{\mathbf{X}}$		Narda Beas-Nordell						X	
Brent Bartholomew   Paul Wake   Dan Carroll   David Fureigh	Carol Verdoia		X						Alan Sevison		$\boxtimes$					
Jaan Carroll  Sterling Corbett  David Fureigh  ACC STAFE: Present Absent  Katie Gregory  Alison Adams-Perlac  AGENDA TOPIC  I. Welcome & Approval of minutes: None  Motion: To approve the minutes of March 2, 2012 as written.  Approval  Unanimous  Vote: In Favor Opposed  AGENDA TOPIC  II. Continued Discussion on Application of Civil Presenterly RATIE GREGORY  Discovery Rule 26.1 to the URJP  At the last meeting the committee determined that the provisions of URCP 26.1 regarding financial disclosures do not apply in juvenile proceedings. The committee asked Katie Gregory to discuss with Tim Shea the appropriateness of inserting a statement to this effect in multiple places within the URJP. Katie Gregory reported on her discussion with Tim. While placement in more than one rule is not required, it would not be inappropriate if it serves an objective of the committee.  MOTION: Brent Hall made a motion to add "Rule 26.1 of the Rules of Civil Procedure does not apply in any juvenile proceedings unless there is a showing of good cause and it is ordered by the court' for Rule 2 as a new subparagraph (d) and also to Rule 20 as subparagraph (c) and to renumber the existing subparagraph (c) as subparagraph (d). Sterling Corbett seconded the motion. No vote was taken.  Discussion followed regarding the need to include the quoted language in Rule 2. After discussion, Brent Hall amended his motion as follows:	Diane Abegglen						$\overline{\mathbf{X}}$		Pam Vickrey		X					
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AMENDED MOTION: Brent Hall amended his earlier motion to add "Rule 26.1 of the Rules of										in Ru	le 2	2.				

Civil Procedure does not apply in any juvenile proceedings unless there is a showing of good cause and it is ordered by the court" to Rule 20 as subparagraph (c) and to renumber the existing subparagraph (c) as subparagraph (d). Brent Hall tabled that portion of his earlier motion regarding Rule 2 and asked that members poll others in their respective disciplines regarding whether the quoted language should be added to Rule 2. Brent Bartholomew seconded the motion as amended and it passed unanimously.

Alan Sevison addressed the following clause in Rule 20(a) regarding discovery in various proceedings: "Discovery...shall be conducted in accordance with Utah R. Cr. P. 16, except where limited by these rules, the Code of Judicial Administration and the Juvenile Court Act." He suggested that this clause of Rule 20(a) should read in the alternative rather than containing the conjunctive "and."

**MOTION:** Alan Sevison made a motion to amend the language of Rule 20(a) to insert a comma after "administration" and change the word "and" to "or." Brent Hall seconded the motion and it passed unanimously.

Action Item:	Katie will amend Rule 20 and bring the revised rule back to the
	committee before the rule is published for comment.

## **AGENDA TOPIC**

III. Admissibility of Hearsay Evidence in Child	[PRESENTER] CAROL VERDOIA
Protection Order Proceedings-Continued	
Discussion of <i>Barnett v. Adams</i>	

Alison Adams-Perlac provided the committee with a copy of *N.D. v. A.B.*, a 2003 case from the Utah Court of Appeals pertaining to the admissibility of hearsay in a child protective order proceeding. The committee further discussed the provisions of 78B-7-203(3) and (4) regarding the presentation of evidence. Recent amendments to URCP 108 regarding objections to Commissioners' recommendations may also impact what may be presented.

The Committee discussed differences between: 1) exparte hearings and child protective order hearing; 2) child protective order proceedings in district and juvenile court; and 3)the URJP and statute; and 4) protective order practice around the state.

For the next meeting the committee will take the following steps:

- Alan Sevison will talk to Judge Noonan about her concerns with the Barnett case.
- The committee will seek Judge Lindsley's comments and feedback from the juvenile bench
- Members will review the statutory provisions regarding child protective order proceedings contained in 78B-7-201, et. seq. and URJP 46 regarding dispositional hearings (considering if child protective order hearings are dispositional or adjudicative).
- Carol Verdoia will discuss the issue with AGs in her office who may attend child protective order hearings.
- Sterling Corbett will seek feedback from others in the office of the GAL, including Rick Smith and Martha Pierce, as to whether the rule is unclear.

The committee will have a further discussion on whether the issue may be resolved by amending rules or whether a statutory clarification is required.

## **AGENDA TOPIC**

IV. Old or New Business/Next Meeting Date [PRESENTER] ALL

The next meeting was scheduled for August 3, 2012 from Noon to 2:00 p.m.

Pam Vickrey asked members to consider whether the new legislation regarding juvenile competency impacts the URJP. Carol Verdoia asked members to review H.B. 393 and suggest any necessary rule revisions.

## Rule 20. Discovery generally.

- (a) Discovery involving adjudications of delinquency, offenses by adults against minors, and proceedings brought pursuant to Section 78A-6-702 and Section 78A-6-703 shall be conducted in accordance with Utah R. Cr. P. 16, except where limited by these rules, the Code of Judicial Administration, or and the Juvenile Court Act.
- (b) In substantiation cases, no later than thirty days prior to trial, parties shall provide to each other information necessary to support its claims or defenses unless otherwise ordered by the court.
- (c) Rule 26.1 of the Rules of Civil Procedure does not apply in any juvenile proceedings unless there is a showing of good cause and it is ordered by the court.
- (d)(e) In all other cases, discovery shall be conducted pursuant to these rules unless modified by a showing of good cause and by order of the court.