

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

August 2, 2013	Noon to 2:00 p.m.	Executive Dining 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"/>
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"/>
Maybell Romero	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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. Professional Practice Disclosures & Approval of Minutes	CHAIR: CAROL VERDOIA
<p>Carol Verdoia introduced Maybell Romero who was appointed to the committee in July, 2013. Members made the professional practice disclosures required by Rule 11-101(4) of the Supreme Court Rules of Professional Practice. The committee reviewed and approved the minutes of November 2, 2012.</p>	
Motion: To approve the minutes of November 2, 2012 as written.	By: Judge Elizabeth Lindsley Second: Joan Carroll
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

II. Admissibility of Hearsay Evidence in Child Protective Order Proceedings-Continued Discussion	[PRESENTER] CAROL VERDOIA
<p>Judge Noonan asked the committee to review the admissibility of hearsay evidence in child protective proceedings last year after the Utah Court of Appeals issued its decision in <i>Barnett v. Adams</i>. In footnote 9 of the decision, the Court noted "To the extent the statutory framework and the Rules of Juvenile Procedure are unclear as to the general applicability of the Rules of Evidence in matters like this, such uncertainty is best resolved by the legislature or relevant rule-making authority." Carol Verdoia review the committee's discussions on whether a rule revision is needed. She also recapped information that Judge Lindsley solicited from members of the juvenile bench and the research performed by Alison Adams-Perlac regarding how other states handle evidentiary issues in child protective order cases.</p> <p>After the last meeting, Judge Lindsley sent correspondence to all juvenile judges to let them know that the committee had reviewed the issue and was not planning further action. She invited them to comment and send proposed language if they felt the rule should be revised, but no comments were</p>	

received.

The committee reiterated concerns that an evidentiary proceeding should not be mandated and that parties should be able to stipulate to a proffer in appropriate circumstances. Ultimately, the committee confirmed its decision to take no further action on the issue. Carol Verdoia will convey the committee's decision to Judge Noonan.

Action Item:

Carol Verdoia to email Judge Noonan regarding outcome of discussions.

AGENDA TOPIC

III. Rule 47-Reviews and Modifications of Orders

[PRESENTER] CAROL VERDOIA

The committee discussed the recent ruling in the case of *In re P.D.* 2013 UT App. 151. The Court of Appeals indicated that Rule 47(b)(3) may require revision. Rule 47(b)(3) states "The court shall not modify a prior order in a review hearing that would further restrict the rights of the parent, guardian custodian or minor if the modification is objected to by any party prior to or in the review hearing." The Court ruled that a father's objection was timely under the rule, even though made at the end of the hearing as the court was preparing to adjourn. However, the Court noted that the result was "odd" to the extent it allowed a party to participate in a non-evidentiary hearing and hold their objection until the outcome had been determined.

After discussion, Judge Lindsley, Alan Sevison and Brent Hall volunteered to review Rule 47 and draft suggested revisions, if any. They will send their work product to Narda Beas-Nardell and Pam Vickrey for review. Katie Gregory will then circulate a draft to the entire committee prior to the committee's next meeting.

Action Item:

Judge Lindsley, Alan Sevison and Brent Hall to prepare draft for circulation prior to the September 27th meeting.

AGENDA TOPIC

IV. Rule 50-Presence at Court Hearings

[PRESENTER] ALISON ADAMS-PERLAC

Ms. Adams-Perlac explained that the standard in 78A-6-114 regarding who may be present at hearings is different than the standard set forth in URJP 50. The committee discussed the 2004 legislation which opened child welfare proceedings to the public, and considered possible solutions to coordinate the language of Rule 50 with statute. The first sentence of Rule 50(a) will be revised to read "In abuse, neglect and dependency cases the court shall admit persons as provided by Utah Code Section 78A-6-114."

Action Item:

Katie Gregory will forward the proposed revisions to Tim Shea to be sent out for comment.

Motion: To revise the first sentence of Rule 50(a) to read "In abuse, neglect and dependency cases the court shall admit persons as provided by Utah Code Section 78A-6-114.

By: Alan Sevison

Second: Brent Bartholomew

Approval

Unanimous

Vote:

In Favor _____ # Opposed _____

AGENDA TOPIC

V. Old Business/New Business	[PRESENTER] ALL
<p>The committee briefly discussed whether the juvenile competency statute had created any procedural issues that should be included in the URJP. After determining that the statute contained the necessary procedure, the committee agreed to take no further action.</p> <p>Next meetings were scheduled for September 27, 2013 and November 22, 2013 from Noon to 2:00 p.m.</p>	