

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

August 3, 2012

12:00 to 2:00 p.m.

Executive Dining Room

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Judge Elizabeth Lindsley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Larry Steele	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Narda Beas-Nordell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 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 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 May 4, 2012 as written.

By: Paul Wake

Second: Joan Carroll

Approval

Unanimous

Vote:

In Favor _____ Opposed _____

AGENDA TOPIC

II. Review of Revisions to Rule 20

[PRESENTER] KATIE GREGORY

Discussion: Katie Gregory distributed a redlined copy of Rule 20 containing the following revisions proposed at the May 4, 2012 meeting:

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.

After discussion, the committee agreed to adopt the revisions, but tabled a vote until a quorum was present. After a quorum was established, the motion was renewed and passed.

Action Item:	Katie Gregory to forward Rule 20 to Tim Shea for public comment.	
Motion: To approve the revisions to Rule 20 as stated above.	By: Brent Hall	Second: David Fureigh
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

III. Admissibility of Hearsay Evidence in Child Protective Order Proceedings	[PRESENTER] CAROL VERDOIA
<p>The committee had a lengthy discussion concerning the applicability of the Utah Rules of Evidence in Child Protective Order proceedings pursuant to UCA 78B-7-201. Some of the key points were as follows:</p> <ul style="list-style-type: none">• Input is needed from the juvenile judges.• Clarification is needed as to whether the proceeding is adjudicative or dispositional. Although ultimately establishing custody may be dispositional, the bulk of the hearing is factual. The ruling may have long term consequences such as determining an individual's right to property, depriving an individual of custody or subjecting them to criminal penalties. Due process concerns may be raised by suspending the application of the Rules of Evidence.• Given the long term consequences of entering a CPO, should hearsay be allowed? An informal poll of attorneys shows that some courtrooms allow hearsay (or suspend the Rules of Evidence) because of the emergency nature of the situation. The CPO is treated similarly to a shelter hearing.• Is the same statute being treated differently in District and Juvenile Court regarding whether parties may present evidence? In District Courts where Commissioners are available, the party may get an opportunity to present evidence by objecting to the Commissioners recommendations and requesting a rehearing before the District Judge. This option is not available in Juvenile Court.• Do we need to clarify the rule or the statute? If the statute is unclear, then a remedy is beyond the scope of the committee.• Concerns that many litigants are pro se and may not know to object to the proffer or the admission of hearsay. <p>The Committee acknowledged the need for input from the juvenile judges and discussed possible questions that could be emailed to the judges by Judge Lindsley. Discussion focused on the child protective order hearing that follows the ex parte petition, not on the ex parte decision itself. After a lengthy discussion, Paul Wake made the following motion:</p>	

