Utah Rules of Juvenile Procedure Committee- Meeting Minutes

Noon to 2:00 p.m.

Virtual WebEx Conferencing

MEETING D	ATE TIME		LOCATION
MEMBERS:	Present Absent Excused	MEMBERS:	Present Absent Excused
David Fureigh		Michelle Jeffs	
Judge Elizabeth Lindsley		Sophia Moore	
Judge Mary Manley		Mikelle Ostler	
Arek Butler		Jordan Putnam	
Monica Diaz		Janette White	
Kristin Fadel		Chris Yannelli	
		Carol Verdoia (Emeritus)	
AOC STAFF:	Present Excused	GUESTS:	Present Absent
Bridget Koza		Jacqueline Carlton	
Xen Fedison		Christopher Williams	
Meg Sternitzky			

AGENDA TOPIC

August 7, 2020

I. Welcome & Approva	l of Minutes	CHAIR: DAVID FUREIGH
David Fureigh welcomed members. Bridget Koza introduced the two new juvenile law clerks, Zen Fedison and Meg Sternitzky, to the members.		
The Committee approv	red the minutes of June 5	2020.
Motion: to approve the minutes of June 5, 2020.	By: Mikelle Ostler	Second: Kristin Fadel
Approval	□ Unanimous □	Vote: In Favor Opposed

AGENDA TOPIC

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II. Rules 5, 17, 31, 52, and	56	DAVID FUREIGH
Rules 5, 17, 21, 31, 44, 52, and 56 were sent out for comment period in June. The comment period closed and no written comments were received. Rules 5, 17, 21, 31, 44, and 56 will be taken to the Supreme Court for approval to publish the rules. Rule 52 was already approved by the Supreme Court and issued as an emergency rule, effective immediately.		
Action Item:	Request that the Supreme Court approve Rules 5, 17, 21, 31, 44, and 56 for final publication.	

AGENDA TOPIC

III. Rule 22-Initial appearance and	DAVID FUREIGH
preliminary examination in cases under Utah	
Code § 78A-6-703.3	
Pula 22 was sent out for comment period in June	The comment period closed and there was one

Rule 22 was sent out for comment period in June. The comment period closed and there was one

written comment received regarding paragraph h. The members reviewed the comment and agreed that paragraph h needs to be rewritten. Judge Lindsley made to motion to amend paragraph h (lines 61-65) to read - "If from the evidence the court finds probable cause to believe that the crime charged has been committed, that the minor has committed it, and the information has been filed under Utah Code section 78A-6-703.3, the court will proceed in accordance with Rule 23A to hear evidence regarding the factors contained Utah Code section 78A-6-703.5." Michelle Jeffs seconded the motion and it passed unanimously. Action Item: Request that the Supreme Court reviewed Rule 22 with the amended language to paragraph h will be presented to the Supreme Court to determine if the proposed rule needs to be sent out for public comment. Motion: to approve the By: Judge Lindsley Second: Michelle Jeffs May 28, 2020 draft of Rule 22 with the further revisions proposed by the committee at lines 61-65 based on written comments received. Approval × Unanimous ☐ Vote: # In Favor__ # Opposed

AGENDA TOPIC

IV. Rule 23A-Hearing on cor Code § 78A-6-703.3 bind ov		DAVID FUREIGH
Rule 23A was sent out for comment period in June. The comment period closed and there was one written comment received. The committee discussed the comment regarding probation providing a certification report as was practice before the statute was changed. Judge Lindsley made a motion that the committee considered the comment and took no action as		
		sentation of evidence and probation no longer
required to complete certific		·
Action Item:	Request that the Suppublication.	preme Court approve Rule 23A for final
Motion: the committee considered the comment and took no action as to the comment because statute governs the presentation of evidence and probation no longer required to complete certification report.	By: Judge Lindsley	Second: Chris Yanelli
Approval	× Unanimous	Vote: # In Favor # Opposed

AGENDA TOPIC

ACENDA TOFTC		
V. Rule 48 - Post-Judgment Motions	CAROL VERDOIA	
v. Raic 40 – 1 03t-3aagment Wottons		
Arek Butler was looking at Rule 48 and if it needed a cross-reference to Utah Code 78A-6-1108.		

Arek was excused from the meeting and the committee agreed that this item will be added to the agenda for the October 7, 2020 meeting.

Carol Verdoia did provide the committee with background information regarding Rule 48 and Utah Code 78A-6-1108 since the language and the statute are different with regarding to standing and post-judgment motions when there is newly discovered evidence. Bridget will review meeting minutes to see if Arek had proposed language for Rule 48 and will include in the agenda for the October 7, 2020 meeting.

Action Item: Rule 48 added to the agenda for the October 7, 2020 meeting.

AGENDA TOPIC

The committee discussed H.B. 33 and language added to Utah Code 78A-6-304 regarding a request for a hearing on whether reunification service are appropriate when an abuse and neglect petition is filed and a termination of the parental rights petition is filed before the disposition hearing. The committee agreed that at this time a rule was not necessary. Action Item: No action taken by the committee on adding a rule to address new language in Utah Code 78A-6-304.

AGENDA TOPIC

VII. In re G.J.P.	DAVID FUREIGH

David informed the committee his discussion with Supreme Court on June 24, 2020. The Supreme Court is looking for guidance around the due process rights of incompetent parents in child welfare cases as well as the procedures to appoint a guardian ad litem.

The committee agreed that the juvenile court law clerks should do a 50-state-survey regarding the appointment of guardians ad litem for incompetent parents. Bridget will discuss with Nancy Sylvester if the Supreme Court's Committee on the Civil Rules of Procedure has discussed *In re G.J.P.* and find out if guardians ad litem are appointed in district court cases. This information is helpful to determine next steps in addressing the Supreme Court's footnote in *In re G.J.P.* as well as provide guidance around the appointment of guardians ad litems for incompetent parents.

Action Item:	Request that juvenile court law clerks do a 50-state-survey
	regarding the appointment of guardians ad litem for incompetent
	parents and Bridget provide information about if guardians ad litem
	are appointed in district court cases

AGENDA TOPIC

VIII. Old or New Business	ALL

The Committee discussed potential future agenda items:

1. Kristin will send over language about possible changes to rules based on new case law from Martha Peirce and Bridget will distribute to the committee.