



## Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

### Approved Meeting Minutes

*David W. Fureigh, Chair*

Location: Webex Meeting:  
<https://utcourts.webex.com/utcourts/j.php?MTID=m60614e94398c691ccac151892d1f861d>

Date: April 2, 2021

Time: 12:00 pm – 2:00 pm

<p><b><u>Attendees:</u></b> David Fureigh, Chair Arek Butler Monica Diaz Kristin Fadel Judge Elizabeth Lindsley Judge Mary Manley Sophia Moore Mikelle Ostler Jordan Putnam Janette White Carol Verdoia, Emeritus Member</p>	<p><b><u>Excused Members:</u></b> Michelle Jeffs Matthew Johnson Chris Yannelli</p>
<p><b><u>Staff:</u></b> Bridget Koza Meg Sternitzky, Juvenile Court Law Clerk Xen Fedison, Juvenile Court Law Clerk Nick Stiles, Appellate Court Administrator</p>	<p><b><u>Guests:</u></b> Christopher Williams, Office of Legislative Research and General Counsel</p>

#### 1. Welcome and approval of the March 5, 2021 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the minutes.

*Monica Diaz moved to approve the March 5, 2021 meeting minutes. Judge Mary Manley seconded the motion. The minutes were approved unanimously.*

## **2. Discussion & Action – Rule 13: Shelter hearings: (Jordan Putnam)**

Jordan Putnam discussed with the committee impacts to Rule 13 from the 2021 Legislative Session and the proposed changes. Jordan noted a few statutory code changes due to the recodification but did not see any substantive changes.

Bridget Koza also noted that rule changes that only have changes to statutory references can be taken to Supreme Court for approval without comment period and approved on an expedited basis so they can go into effect on September 1<sup>st</sup> with the recodification.

*Jordan Putnam moved to present the revised Rule 13 (Draft March 26, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Sophia Moore seconded the motion, and it passed unanimously.*

## **3. Discussion & Action – Rule 34: Pre-trial hearing in non-delinquency cases: (Jordan Putnam)**

Jordan Putnam discussed with the committee impacts to Rule 34 from the 2021 Legislative Session and the proposed changes. Jordan noted one statutory code change due to the recodification: § 78A-6-309 is changed to § 80-3-401.

*Jordan Putnam moved to present the revised Rule 34 (Draft March 26, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Sophia Moore seconded the motion, and it passed unanimously. Jordan left the meeting.*

## **4. Action – Rule 26: Rights of minors in delinquency proceedings: (Bridget Koza)**

Bridget Koza discussed with the committee that they had previously approved amendments to Rule 26 to make it consistent with the Indigent Defense Act. Bridget noted that no comments were made during the comment period, and that the next step is to present the rule to the Supreme Court.

Bridget remarked that she reviewed the rule for changes due to the recodification and asked the committee for further input. Monica Diaz commented that the recodification moves reference to minors subject to a criminal information to § 78A-6-103.5. Monica then suggested to include a reference to § 78A-6-103.5 in the rule. Judge Lindsley proposed adding the language “or information filed pursuant to Section 78A-6-103.5” following “a delinquency petition filed pursuant to Section 78A-6-103” in paragraph (a) of the rule.

*The committee agreed to include a reference to § 78A-6-103.5 and review the proposed language change at the May 7 meeting.*

**5. Discussion & Action – Rule 8: Rights of minors while in detention:** (Monica Diaz)

Monica Diaz discussed with the committee impacts to Rule 8 from the 2021 Legislative Session and the proposed changes. Monica noted that the changes were a result of H.B. 158 Juvenile Interrogation Amendments. The existing language was struck in paragraphs (c)-(e), and language from the statute was added to paragraph (c) to conform the rule and the statute.

The committee discussed the changes, and Arek Butler noted a style error – the letter denoting a paragraph should not be next the number. Bridget Koza agreed to correct the style error.

*Monica Diaz moved to present the revised Rule 8 (Draft March 23, 2021) to the Supreme Court to obtain approval to publish it for public comment. Janette White seconded the motion, and it passed unanimously with the condition that Bridget Koza corrects the style error.*

**6. Discussion & Action – Rule 11: Time limits on detention orders:** (Monica Diaz)

Monica Diaz discussed with the committee impacts to Rule 11 from the 2021 Legislative Session and the proposed changes. Monica noted one statutory code change due to the recodification in paragraph (a)(3): § 78A-6-113 is changed to § 80-6-207.

*Monica Diaz moved to present the revised Rule 11 (Draft March 23, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Lindsley seconded the motion, and it passed unanimously.*

**7. Discussion & Action – Rule 27: Fingerprinting, photographing, and regulating discovery; HIV testing:** (Monica Diaz)

Monica Diaz discussed with the committee impacts to Rule 27 from the 2021 Legislative Session and the proposed changes. Monica noted two statutory code changes due to the recodification: § 78A-6-1104 and § 78A-6-105 is changed to § 80-6-608; § 78A-6-1104 is changed to § 80-6-608.

The committee also briefly discussed and reconciled the rule’s distinction of fingerprinting “a child under the age of 14” and the statute’s requirement that “all minors 14 years of age or older” get fingerprinted.

*Monica Diaz moved to present the revised Rule 27 (Draft March 23, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Judge Lindsley seconded the motion, and it passed unanimously.*

**8. Discussion & Action – Rule 27A: Admissibility of statements given by minors:** (Monica Diaz)

Monica Diaz discussed with the committee impacts to Rule 27A from the 2021 Legislative Session and the proposed changes. The existing language in paragraphs (b) and (c) was struck and language was added in paragraph (a) to conform the rule and

H.B. 158 Juvenile Interrogation Amendments. Two statutory code references were also made to bring the rule in line with the recodification.

Bridget Koza noted that she removed subsection references. David Fureigh suggested to add “an” before “interrogation” in line 5, but Arek Butler commented that the language was correct.

*Monica Diaz moved to present the revised Rule 27A (Draft March 23, 2021) to the Supreme Court to obtain approval to publish it for public comment. Judge Lindsley seconded the motion, and it passed unanimously.*

**9. Discussion & Action – Rule 51: Violation of probation and contempt by a minor:**  
(Judge Elizabeth Lindsley)

Judge Elizabeth Lindsley discussed with the committee impacts to Rule 51 from the 2021 Legislative Session and the proposed changes. Judge Lindsley noted one statutory code change due to the recodification: § 78A-6-1101 is changed to § 78A-6-353. Bridget noted the style error in denoting the paragraph letters and numbers and agreed to fix it.

*Judge Lindsley moved to present the revised Rule 51 (Draft March 26, 2021) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Sophia Moore seconded the motion, and it passed unanimously with the condition that Bridget Koza corrects the style error.*

**10. Discussion & Action – Rule 55: Transfer of minors who present a danger in detention:** (Judge Mary Manley)

Judge Mary Manley discussed with the committee impacts to Rule 55 from the 2021 Legislative Session and the proposed changes. Judge Manley noted that there were some substantive changes, because the recodification added a section about transfer of minors from correctional facilities. Judge Manley changed the title of the rule to reflect this and added a section from the code (directed towards law enforcement’s role in transferring minors from correctional facilities) and suggested alternative language, at line 21, for the juvenile court.

The committee agreed the alternative language directed towards the juvenile court was better. The committee struck the language at lines 14-20 and adopted the alternative language in lines 21-25.

*Judge Manley moved to present the revised Rule 55 (Draft March 25, 2021 as amended above) to the Supreme Court to obtain approval to publish it for public comment. Judge Lindsley seconded the motion, and it passed unanimously.*

**11. Discussion & Action – Rule 44: Findings and conclusions:** (Carol Verdoia)

Carol Verdoia discussed with the committee impacts to Rule 44 from the 2021 Legislative Session and the proposed changes. Carol noted a few statutory code changes due to the recodification.

The committee also discussed stylistic issue – whether sections should be broken up by an em dash or listed completely and whether the statutory code changes should be listed chronologically, at lines 27. The committee agreed the statutes should be listed chronologically.

The committee also noted potential language changes due to the recodification. It was noted that the language “permanent deprivation” is not used anymore. Sophia Moore suggested making the necessary language changes and reviewing the changes at the May 7 meeting. Janette White also suggested moving paragraph (e) above paragraph (d).

*The committee agreed to make necessary language changes to the rule and review the changes at the May 7 meeting.*

## **12. Discussion & Action – Rule 12: Admission to shelter care: (Janette White)**

Janette White discussed with the committee impacts to Rule 12 from the 2021 Legislative Session and the proposed changes. “Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings” is changed to “Title 80, Chapter 3, Part 1, Abuse, Neglect, and Dependency Proceedings”

Arek Butler also commented that “Annotated” should be removed, since it has been removed in other references to the code in the rules.

*Janette White moved to present the revised Rule 12 (Draft March 26, 2021 as amended above) to the Supreme Court for approval on expedited basis to go into effect September 1, 2021. Kristin Fadel seconded the motion, and it passed unanimously.*

## **13. Discussion & Action – Rule 3: Style of pleadings and forms: (Bridget Koza)**

Bridget Koza discussed with the committee proposed changes to Rule 3 – to change “Plaintiff v. Defendant” to “Petitioner vs. Respondent” in cases requesting protective orders and custody, child support, and parent time cases in district court. Bridget noted that this change brings the rule in line with how the statute discusses these cases as well as approved court forms.

Judge Manley brought up the related issue of criminal protective orders and whether the orders should be title “State of Utah vs. Respondent” or “In the Interest of.” Judge Lindsley suggested that the committee should wait on this issue until the forms have been finalized.

The committee also discussed at length whether private petitions should be titled to exclude “State of Utah.” Judge Manley suggested the committee could add the language “in cases requesting protective orders or private petitions,” at lines 13-14. Judge Lindsley suggested adding a separate subsection stating “in a private petition for abuse, neglect or dependency or request for termination of parental rights . . .” After further discussion, the committee decided to keep the current language regarding private petitions since it conforms with court forms and current programming in the juvenile court’s case management system.

*Judge Lindsley moved to present the revised Rule 3 (Draft March 24, 2021) to the Supreme Court to obtain approval to publish it for public comment. Kristin Fadel seconded the motion, and it passed unanimously.*

**14. Old business/new business:** (all)

The committee noted they will be going through more rules impacted by the 2021 Legislative Session at the next meeting.

*The meeting adjourned at 1:33 p.m. The next meeting will be held May 7, 2021 at 12:00 pm via WebEx.*