



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

### Meeting Minutes

*David W. Fureigh, Chair*

Location: Webex Meeting

Date: October 7, 2022

Time: 12:00 p.m. – 2:00 p.m.

<p><b><u>Attendees:</u></b> David Fureigh, Chair Judge Paul Dame Judge Debra Jensen Mikelle Ostler Jordan Putnam Sophia Moore Matthew Johnson Arek Butler William Russell Michelle Jeffs</p>	<p><b><u>Excused Members:</u></b> Janette White Chris Yannelli Kristin Fadel Carol Verdoia, Emeritus Member</p>
<p><b><u>Staff:</u></b> Raymundo Gallardo Kiley Tilby, Recording Secretary Savannah Schoon, Juvenile Court Law Clerk</p>	

**1. Welcome and approval of the September 2, 2022 Meeting Minutes: (David Fureigh)**

David Fureigh welcomed everyone to the meeting and asked for approval of the September 2, 2022 Minutes. Judge Dame proposed grammatical changes to the minutes. With those amendments, Judge Dame moved to approve the September 2, 2022 Minutes. Sophia Moore seconded the motion, and it passed unanimously.

**2. Discussion & Action - Rule 6. Admission to detention without court order: (All)**

David Fureigh reminded the committee that at the last meeting, Chris Yanelli and other committee members were going to reach out to law enforcement agencies throughout the state to get their input with regard to the proposed changes to Rule 6. Mr. Yanelli was not able to be at the committee meeting, but indicated he is still waiting to hear back from a few law enforcement agencies. Mr. Fureigh proposed that instead of voting on the proposed changes and sending it out for comment today, that it be placed on the agenda for next month.

There was some additional discussion about other committee members reaching out to law enforcement agencies they work with. Michelle Jeffs indicated she was not at the committee meeting last month but would reach out to law enforcement and report back.

Judge Dame asked Judge Beck for his feedback on the proposed change to the language, specifically as it relates to the last sentence. Instead of indicating the reason the minor was not “released” from detention, the committee changed the language to indicate the reason the minor “was taken to a detention facility.” Judge Beck indicated he had read through the minutes from the last committee meeting and the rationale behind the change and does not have an issue with the language as proposed by the committee. Judge Beck further stated it makes sense to wait for input from law enforcement.

No objection was received from the committee to set this discussion over for next month to allow additional time for law enforcement feedback and will be added to the agenda.

**3. Discussion & Action - URCP 4 and URJP Rule 18: (All)**

Mr. Fureigh indicated this was placed on the agenda for committee consideration because a practitioner that does not typically practice in juvenile court mentioned to a juvenile attorney that the summons in a juvenile court matter failed to comply with Rule 4 of the Utah Rules of Civil Procedure. The practitioner had specifically stated it failed to comply with the bilingual notice outlined in section (c)1(G) of Rule 4. Mr. Fureigh indicated the juvenile rules have their own rule regarding a

summons for juvenile court cases and the summons did comply with Rule 18 of the Utah Rules of Juvenile Procedure. However, the committee may want to consider including similar language in Rule 18.

Jordan Putnam clarified whether Mr. Fureigh was referring to the bilingual notice on the Summons only, or whether Mr. Fureigh was also discussing making changes to juvenile rules to update the headers to include the warning language that is now required. Mr. Fureigh stated he was only referring to the bilingual notice that is not currently required by Rule 18 of the juvenile rules. Mr. Fureigh indicated there is a form that is given with the Summons that provides parties who do not speak English with directions on how to proceed.

The committee then discussed whether the same form that is being provided in district court matters could be used in juvenile court proceedings. Judge Dame expressed concern with the default language that is outlined in the current form as there is not a default on termination of parental rights. Mr. Fureigh indicated the committee would either need to come up with their own form or send it to the forms committee to make the necessary changes applicable to juvenile court. Judge Dame does not think the committee should be dealing with the form development.

Mr. Putman believes the form would be helpful as parents are often overwhelmed when they are served with documents. Mr. Putman likes the idea of parents being served with a form so they know what they are being served with and believes a bilingual notice would be beneficial. Mr. Putman also expressed that if the Utah Rules of Civil Procedure committee believed the form was necessary in district court matters, it should also be incorporated in juvenile court matters where the consequences are potentially more severe.

Arek Butler agreed that the bilingual notice is important and thinks it is a good idea to include that language in the rule but recommends using the current form as already prepared. Mr. Butler does not know that the entire form needs to be changed due to the default language. The default language in the form puts the parties on notice that default may happen.

Mr. Putman expressed concern in using the district court form as he is worried parents might believe that if the 21 days has passed, they have lost and will not be inclined to show up to court. Even if the parents do not show up, the cases do not just end after 21 days. Judge Dame agrees on that point and is also concerned parents may look at it on the 25<sup>th</sup> or 30<sup>th</sup> day and think there is no sense in doing anything due to missing the deadline.

William Russell is in favor of using second languages that are predominant in demographic areas and likes the spirit of the civil rule. Mr. Russell is supportive of the bilingual/multilingual outreach that Rule 4 embodies and believes it does

help those individuals understand what is going on when they are served. However, Mr. Russell sees significant differences in both substantive and procedural issues involved in Rule 4 as the timelines are similar but are not identical. Mr. Russell also indicates the most important distinction is that in child welfare matters, parents have a right to counsel. The district court form does not mention that right and would be an important substantive issue to put in there, as well as to advise individuals of timelines and omit the default provisions. Mr. Russell believes the form would need some pretty significant rework.

Mr. Fureigh stated the committee could contact the forms committee and see if they would be willing to consider doing a form for the juvenile court that comply with the juvenile rules. Mr. Fureigh does not think the committee can do their own form due to the translation to Spanish and other languages. If the forms committee is not willing to create a new form, that will resolve the issue. Judge Jensen agreed it is a good idea to get feedback from the forms committee before continued discussion on this issue. Raymundo Gallardo indicated he will reach out to the forms committee and raise the issues. Mikelle Ostler believes they will be supportive.

This topic will be moved to the agenda for next month for further discussion.

#### **4. Old business/new business: (All)**

Mr. Fureigh indicated he received an e-mail from Judge Leavitt from the 5<sup>th</sup> District. Judge Leavitt sits on the Rules of Evidence committee and requested to join one of our meetings to address some upcoming potential changes to the Rules of Evidence that may impact the juvenile rules. Judge Leavitt provided Mr. Fureigh with the proposed changes and an e-mail with an explanation. Mr. Gallardo will disperse those to the committee members for review and consideration.

Mr. Fureigh stated there are two or three places within the Rules of Evidence that directly refer to delinquency or juvenile court cases. The impression Mr. Fureigh got was there is concern that if an individual is reading the Rules of Evidence and sees that a particular rule does not mention juvenile court, then the rule does not apply to juvenile court matters. The Rules of Evidence committee is looking at removing any reference to the juvenile court so there is no confusion that all the Rules of Evidence apply. These changes may have some impact on the juvenile rules.

Mr. Fureigh also reports he is meeting with the Utah Supreme Court next week and will report on that at the next committee meeting.

The meeting adjourned at 12:45 PM. The next meeting will be held on November 4, 2022 at 12:00 PM via Webex.