



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

Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: November 3, 2023

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> Matthew Johnson, Chair William Russell Elizabeth Ferrin Thomas Luchs Judge Paul Dame Janette White Michelle Jeffs Arek Butler James Smith Sophia Moore Judge Debra Jensen David Fureigh, Emeritus Member Carol Verdoia, Emeritus Member</p>	<p><u>Excused Members:</u> Adrianna Davis Dawn Hautamaki Jordan Putnam</p>
<p><u>Staff:</u> Randi Von Bose, Juvenile Law Clerk Lisa McQuarrie, Juvenile Law Clerk Raymundo Gallardo Kiley Tilby, Recording Secretary</p>	

1. Welcome and approval of the October 6, 2023, Meeting Minutes: (Matthew Johnson)

Mr. Gallardo introduced Lisa McQuarrie, who is the newest juvenile law clerk. Mr. Gallardo also welcomed Alicia Green and Amy Giles as guests to the meeting. Mr. Gallardo stated Ms. Green and Ms. Giles are program coordinators with the Administrative Office of the Courts and have been hired to take on the automatic expungement process.

Mr. Johnson welcomed everyone to the meeting. Mr. Johnson asked for the committee for approval of the October 6, 2023, meeting minutes. Judge Dame made a grammatical change to page seven, and the change was made. Judge Dame moved to approve the minutes. Ms. White seconded the motion, and it passed unanimously.

2. Discussion & Action: Rule 19C. Delinquency, traffic and adult criminal matters:
(All)

Mr. Johnson stated there is a proposal to amend Rule 19C to mirror the language outlined in Rule 12 of the Utah Rules of Criminal Procedure. Mr. Gallardo stated Randi, the juvenile law clerk, was approached by one of the judges regarding this language and they have been working with Mr. Russell regarding the proposal.

Mr. Russell stated he made suggestions and provided his opinion on the draft. Mr. Russell indicated the proposal is what he had hoped for, including the stylistic changes that were made. Mr. Russell noted that he circulated this amongst other practitioners and posed the question of whether there would be a reason that the juvenile rule should differ from the criminal rule. Mr. Russell stated the feedback he received was that it should be the same. Mr. Russell is happy with the verbatim transfer of Rule 12 language into Rule 19C, and Mr. Russell expressed thanks to Mr. Gallardo and staff for making it look exactly how he envisioned.

Mr. Johnson inquired if Judge Dame or Judge Jensen knew of or heard of any differences between the criminal rule versus the juvenile rule. Judge Dame stated he does not see a need for it to be different and believes there is an advantage to keeping it consistent with Rule 12. Judge Jensen agreed. Mr. Johnson requested a motion from the committee to send the proposal to the Supreme Court. Mr. Russell made the motion to send the proposal to Rule 19C to the Supreme Court. Ms. Jeffs seconded the motion, and it passed unanimously. Mr. Johnson stated it will be placed on the agenda when they meet with the Supreme Court on November 15th.

3. Discussion & Action - Rule 9. Detention hearings; scheduling; hearing procedure:
(All)

Mr. Johnson stated the proposed changes to Rule 9 were sent for public comment, the comment period closed, and there were no comments received. Judge Dame

suggested including “Utah Code section” in front of 80-6-503 in subpart (o). The committee agreed with Judge Dame’s suggestion, and the change was made.

Mr. Gallardo stated Ms. Hautamaki, who is a clerk of court and a committee member, brought to his attention a potential issue with the statute referred to in subpart (a) of Rule 9. Ms. Hautamaki indicated Rule 9(a) refers to a required report as outlined in Utah Code section 80-6-201. However, Ms. Hautamaki wondered whether it should refer to 80-6-203, which is the same report and detention booking sheet this committee was working on with JJYS a few months ago. The committee reviewed the two statutes. Judge Dame believes Ms. Hautamaki is correct, and subpart (a) is referring to the report outlined in 80-6-203(3)(c). Judge Jensen noted there is not a report noted or referenced in 80-6-201, so 80-6-203 would be the correct statute. The committee made the change to subpart (a) to the correct statute.

The committee discussed whether these changes to Rule 9 required it to be sent out for an additional comment period. Ms. Verdoia stated she always relied on a staff member with the AOC who knew the specific rules, but she is not sure who holds that position now. Mr. Johnson proposed they could place it on the agenda to discuss with the Supreme Court to determine whether it needs to be sent out for an additional comment period, or if it can be sent for final publication. Mr. Johnson requested a motion from the committee to send the proposal to the Supreme Court for publication and/or further comment period. Judge Jensen made the motion, Mr. Russell seconded, and it passed unanimously.

4. Discussion & Action - Rule 10. Bail for non-resident minors: (All)

Mr. Johnson stated this committee made proposed changes to Rule 10, it was sent for public comment, and no comments were received. Mr. Johnson requested a motion from the committee to send it to the Supreme Court for final publication. Ms. White made motion, Ms. Moore seconded, and it passed unanimously.

5. Discussion & Action - Proposed 2024 Meeting Schedule: (All)

Mr. Johnson inquired if the committee members have had a chance to look at the proposed 2024 meeting schedule. Mr. Johnson stated the July meeting is normally skipped, which he thinks is appropriate given that it is the day after the 4th of July holiday. Mr. Johnson also inquired whether the committee wanted to continue having an in-person meeting once a year, which would take place in May. The committee agreed. Judge Dame requested an option to appear virtually for those committee members who would have to travel a long distance to attend. Mr. Johnson stated he does not have a problem with a hybrid meeting.

Mr. Johnson requested a motion from the committee to approve the proposed meeting schedule for next year. Ms. Jeffs made the motion, Ms. White seconded, and it passed unanimously.

6. Old business/new business: (All)

Mr. Gallardo stated they received the Supreme Court Memo regarding voting and non-voting members. Mr. Gallardo indicated it was a good reminder that non-voting members such as emeritus members and recording secretaries cannot vote. Mr. Gallardo does not believe that is an issue with this committee.

Ms. Verdoia stated she attended the appellate rules committee meeting on the discussion surrounding Rule 52, which deals with child welfare appeals. Ms. Verdoia informed the committee that the appellate rules committee voted on an amendment to Rule 52. That proposed change deals with a party who was unaware that an appeal deadline had passed on a termination of parental rights case, such as they lost contact with their counsel. Ms. Verdoia indicated the party would still have to prove it was not their fault that their counsel did not file on time. This discussion was brought to the attention of the appellate rules committee due to a recent case, and the appellate rules committee decided on a 45-day deadline, with an option for a motion to reinstate the appeal to be entertained. Ms. Verdoia indicated a hearing could potentially be held if there is an issue about whose fault it was and whether it should be reinstated. Ms. Verdoia wanted to bring it to this committee's attention to watch for that.

Mr. Russell indicated the proposed changes to Rule 101 of the Utah Rules of Evidence were adopted by the Supreme Court and became effective as of November 1st. Mr. Russell wanted to make the committee aware that there are a few rules that would now be applicable to juvenile proceedings or adjudications. Mr. Russell stated he has heartburn with the applicability of Rule 404(c) of the Utah Rules of Evidence being applicable to juvenile proceedings, and he is contemplating approaching this committee at a future date about a possible carveout from Juvenile 404(c) from juvenile proceedings.

Mr. Gallardo stated that this committee had a couple of rules from the Utah Rules of Juvenile Procedure that went into effect on November 1st as well, such as Rule 22 and Rule 37A. Mr. Gallardo indicated the next effective cycle date would be May 1, 2024, and inquired if there are any rules that this committee has worked on that will be submitted to the Supreme Court for publication soon but need to become effective sooner than the May 1, 2024, date. Mr. Johnson stated the only rule he can see that may need to become effective sooner rather than later is Rule 9. Ms. White stated she had a judge reach out to her and indicate they would like to see it effective as soon as possible, as it sounds like it would reduce hearings and issues that don't need to be addressed as often as they have been.

Judge Dame agreed it would be helpful for Rule 9 to become effective sooner, but he doesn't know what the standard is for deviating from the regular timeframes. Judge Jensen believes the changes will be well received but noted the types of cases that Rule 9 is dealing with don't come around as often as other cases, so it just depends. Judge Jensen stated she would love to see it become effective earlier but is not sure if it is a necessity. Mr. Russell agrees there is a burden on judges and probation staff and indicated he has several in his jurisdiction for which reviews are currently happening three times more often than what the rule amendment is proposing. Mr. Russell stated there is already a protection that anyone can request an earlier review if needed, so he would request it be published as soon as it can be.

The meeting adjourned at 12:50 PM. The next meeting will be held on December 1, 2023, via Webex.