

Rule 11 Discussion:

Chris Yannelli reported that he reviewed Rule 11 and did not see the need for any changes based on H.B. 239. The committee considered the need to retain existing language regarding the use of "forms supplied by the clerk." Mikelle Ostler will check with the Clerks of Court to see if clerks are still using "forms supplied by the clerk" as stated on line 16 of the rule. She will report back and the committee will discuss the Rule 11 again at its March 2, 2018 meeting.

Action Item:

Members should review the *McLaughlin* decision. Pam Vickrey will discuss the case holding with the H.B. 239 Implementation Committee. Rules 9 and 11 will be placed back on the agenda for March 2, 2018.

AGENDA TOPIC**III. Review of Rules 7A and 39**

JUDGE LINDSLEY AND BRIANA ALLEN

Rule 39 Discussion:

The committee discussed concerns raised at the last meeting regarding the need to notarize documents in juvenile court because Section 78B-5-705 does not include the Rules of Juvenile Procedure in its exception allowing declarations in lieu of an affidavit. Katie Gregory has requested that an amendment to Section 78B-5-705 be included in the judiciary's "housekeeping" bill, but it may be too late to forward the proposal for the 2018 session.

Briana Allen summarized her research on the legislative history of Section 78B-5-705 and also explained that Section 78B-6-302 does not permit a statement of facts in lieu of affidavit to support a finding of contempt. The Utah Court of Appeals decided in *Iota, LLC v. Davco Mgmt. Co., LC* that the phrase "statement of facts by a judicial officer," in Section 78B-6-302 meant statements from any justice or judge of a court of record or any county court judge, but not anyone else. Therefore, it's not possible to use Section 78B-6-302 as a basis for a Rule 39 contempt declaration in Juvenile Court; the rule requires a notarized affidavit. Another option would be to remove the word "affidavit" from all of the juvenile rules. Katie Gregory or Briana Allen will report back to the committee in January on the potential for fixing the issue legislatively.

Rule 7A Discussion:

Judge Lindsley reviewed a November 28, 2017 draft of Rule 7A and proposed amending line 3 to strike "pick up order" and replace it with "warrant." She also proposed changing the title of the rule from "Pick up orders" to "Verbal warrants." She incorporated this in a motion which was seconded by David Fureigh. The committee discussed the need to retain the phrase "exigent circumstances" in the rule and whether it moderates "appears necessary for the protection of the community or the minor" or is a reference to when a judge is not available at the courthouse. Katie Gregory provided history regarding the creation of Rule 7A in 2007. In 2007, the committee created Rule 7A as a way to distinguish pickup orders from other warrants discussed in Rule 7. This was in response to concerns raised by the Juvenile Bench that a pick up order was distinguishable from a warrant. The Board's comments were shared with the URJP Committee and discussed with the Utah Supreme Court. After discussion, Judge Lindsley withdrew her motion and asked that the matter be placed on the agenda for the January 5, 2018 meeting. Katie Gregory will send Judge Lindsley a memo prepared by former juvenile court law clerk, Maile Verbica, containing research completed at the time Rule 7A was created in 2007. Judge Lindsley will summarize the research for the committee.

Action Item:

Judge Lindsley will summarize existing research for the committee.

AGENDA TOPIC

IV. Review of Rule 53-Appearance and withdrawal of counsel.	PAM VICKREY
<p>A defense attorney contacted Pam Vickrey and asked her to discuss revisions to Rule 53 to make it easier for counsel to withdraw from a case. She read the attorney's email to the committee. He proposed an alternative path to withdrawal of counsel in both delinquency and child welfare cases rather than mailing a motion to the client and serving on all parties, wait for objections and prepare a notice to submit for decision. This must be then be followed by the filing of a Notice of Withdrawal. Members discussed whether practice should be different in delinquency cases versus child welfare cases and the differences between withdrawing and asking that the court vacate the appointment. Ultimately, the committee held Rule 53 for further discussion at its March 2, 2018 meeting. This will allow time for the Indigent Defense Commission to present its proposal on best practice standards to the Board of Juvenile Court Judges and others this winter.</p>	
Action Item:	Return Rule 53 to the March 2, 2018 agenda.

AGENDA TOPIC

V. Old/New Business	ALL
<p>The committee ran out of time to discuss the agenda item related to Rule 3. Katie Gregory reported that the comment period closed for Rules 14, 17, 34 and 48 and no comments were received. The comment period for Rules 7, 15, 16, 23A, 31 and 33 expires on December 31, 2017.</p>	