## Utah Rules of Juvenile Procedure Committee- Meeting Minutes

February 2, 2018		Noon to 2:00 p.m.	Conference Rooms B & C
MEETING DATE		TIME	LOCATION
MEMBERS:	Present Absent Excus	ed MEMBERS:	Present Absent Excused
Carol Verdoia		Mikelle Ostler	
Judge Elizabeth Lindsley		Alan Sevison	
Judge Mary Manley		Pam Vickrey	
Kristin Fadel		Chris Yannelli	
David Fureigh		Sophia Moore	
Brent Hall			
Debra Jensen			
Trish Cassell			
AOC STAFF:	Present Excused	GUESTS:	Present Absent
Katie Gregory			
Jean Pierce			
AGENDA TOPIC			
I. Welcome & Approval of Minutes		CHAIR: CAROL VERDO	DIA

I. Welcome & Approva	al of Minutes	CHAIR: CAROL VERDOIA					
Carol Verdoia welcomed members and called for approval of the minutes of January 5, 2018. Katie Gregory reported on legislation to make a statutory correction to 78B-5-705. The bill would add the Rules of Juvenile Procedure to the list of rules that may permit the substitution of an unsworn written declaration in lieu of a written declaration upon oath.							
Motion: To approve the minutes of January 5, 2018 as written.	By: Debra Jensen	Second: Chris Yannelli					
Approval	□ Unanimous □	Vote: In Favor Opposed					

## **AGENDA TOPIC**

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II. Prioritization of Committee Request List	CAROL VERDOIA

Carol Verdoia reviewed the committee's list of requests for rule revisions. A copy of the list is attached. After discussion, the committee prioritized the issue of the participation of tribes in juvenile court hearings. The committee also noted that some of the items on the list were previously tabled to be placed on the March 2, 2018 agenda. These included: Rule 53 regarding withdrawal of counsel, adding provisions required by H.B. 239 pertaining to when a juvenile is held in detention for more than 72 hours, and the *McLaughlin* issue of whether it is unconstitutionality to omit weekends and holidays in the computation of time a youth may be required to stay in detention prior to a hearing.

The committee also noted that items on the prioritization list regarding Rules 5(j), Rule 18 and Rule 58 may be resolved quickly with minor changes. Judge Lindsley, Chris Yannelli and Debra Jensen will propose minor revisions to these rules for the March meeting. Revisions to Rule 3(b) pertaining to captioning of pleadings may require a statutory change before it can be address in rule. Finally, the item pertaining to Rule 41 was removed from the list because it has been addressed by case law.

Judge Lindsley added an item to the prioritization list at the request of one of her colleagues. The issue pertains to whether Section 78A-6-103 requires a probable cause statement in a petition. Judge Lindsley will gather more information and report back, including whether this was addressed in the revisions to Rule 19C regarding the right to request a bill of particulars.

The committee voted to prioritize the issue of tribal participation as first on the list after the items that are already set for the March meeting and any other urgent legislative issues that arise in March. Carol Verdoia will send Katie Gregory a memo completed by law clerks in the AG's office containing a fifty state survey on the issue of tribal participation. Katie Gregory will circulate the survey to committee members along with information she obtained from other states.

The committee then set the agenda for the March meeting, including the following items previously tabled for March: Rule 9, Rule 11 and Rule 53. In addition, the committee added Rule 8 regarding interviews of youth in detention. The committee also added, if time allows, minor revisions to Rules 5, 18 and 58. Following these items, the committee will consider the issue of tribal participation in court hearings.

In addition, Judge Lindsley will poll the juvenile judges on the statutory issue regarding captioning of pleadings and its impact on Rule 3. Carol Verdoia and Katie Gregory will address the Rule 4 timing issue with the Appellate Court Administrator. The committee also discussed the request of David Burke regarding permanency and termination timelines. Carol Verdoia will respond to Mr. Burke and let him know why the committee has not yet been able to address his request.

Action Item:	Katie Gregory will send formatted copies of Rules 5, 18, 58 to Judge Lindsley, Debra Jensen and Chris Yannelli.			
Motion: to prioritize as number one on the list the issue of tribal participation in juvenile court hearings.	Ву:	Sophia Moore	Seco	ond: Brent Hall
Approval		Unanimous	☐ Vote: In Favor	Opposed

## Utah Rules of Juvenile Procedure Request List:

- 1. Consider New Rules re: tribe's participation in hearings
- 2. URJP 8 re: interviews of youth in detention [Pam Vickrey]
- 3. David Burke's proposal re: **permanency and TPR timelines** related to HB 72 (2017). Mr. Burke requests "there be a timeframe for the termination trial to be concluded no later than about three months from the time the pretrial hearing on the petition for termination of parental rights." [Carol Verdoia]
- 4. Pam's timing issue on **URJP 4** (URJP 4 excludes weekends/holidays, but URCP 6 and URCrP 2 now include weekends/holidays in time computation). [Carol Verdoia/Katie Gregory to address Cathy Dupont]
- 5. URJP 53 (Pam received a request from attorney Rob Latham that the committee consider amending URJP 53 to accommodate withdrawals of counsel without a written notice or motion when the juvenile is also present in the courtroom similar to URCrP 36(a)(2). [Pam Vickrey]
- 6. **HB 239 issues**, especially those going into effect August 1, 2017. These may include truancy issues (jurisdiction) and adding rules regarding requirements of parties when a juvenile will be held in detention more than 72 hours because a placement has not been found (see approximately lines 3164-3182). [On going]
- 7. **URJP 3(b)** (insisting that private petitions be brought in the name of the state, often where the state refuses to participate. Should be "Jane Doe, in the interest of Child" rather than "state, in the interest of child."). Otherwise, state needs to be joined in each private action. [Martha Pierce]
- 8. **URJP 5(j)** (definition of ungovernability should mirror the jurisdictional definition in Utah Code Ann. § 78A-6-103. [Martha Pierce]
- 9. **URJP. 18** (perhaps something specifying that both parents need to be served and have party status in a dependency proceeding). *See State ex rel. A.H.*, 2004 UT App 39, ¶ 16, 86 P.3d 745 (constitutional due process concerns require notice to noncustodial parent). [Martha Pierce]

- 10.**URJP 41** (perhaps something specifying that post-adjudication dispositions such as transfer of custody, i.e., once the parental presumption has been rebutted, should be based on preponderance of evidence level of proof). Also, perhaps something regarding the discipline defense, that, once the petitioner has established that conduct is abusive, the burden shifts to the other party to produce demonstrating that the otherwise-abusive conduct was reasonable discipline). [Martha Pierce]
- 11. **URJP 58.** Rule 58 only refers to Title 77 Chapter 38 when applying victims' rights to the juvenile court proceeding. However, the additional rights for children are in Title 77 Chapter 37. It would seem appropriate to give child witnesses in juvenile court the same protections and rules particularly since it talks about CJC interviews and the rights to protection from being questioned as if they are being blamed for the incident. [Dixie Jackson/Stacey Snyder].
- 12. Discussion of how to address constitutional concerns where the child welfare statutes contain procedural rules. Should these be handled in rule instead of statute?