

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

June 3, 2016

Noon to 2:00 p.m.

Conference Room A

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley (by telephone)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trish Cassell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Excused		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Emily Iwasaki	<input type="checkbox"/>	<input checked="" type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

AGENDA TOPIC

I. Welcome & Approval of Minutes		CHAIR: CAROL VERDOIA
Corrections to the Minutes: None		
Motion: To approve the minutes of March 18, 2016.	By: Brent Hall	Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____	

AGENDA TOPIC

II. Remote Access Rules: Rule 29B and 37B	CAROL VERDOIA
<p>Carol Verdoia and Katie Gregory met with the Supreme Court on May 25, 2016 to discuss the committee's work on remote access rules for juvenile court. The Supreme Court returned proposed Rules 29B and 37B to the committee for further consideration of standards for permitting participation versus permitting testimony by a witness. The Supreme Court asked for more guidance in the form of an Advisory Committee Note on how the committee defines "compelling circumstance." The Supreme Court also reviewed the other corresponding rule proposals from the Rules of Criminal Procedure Committee (Rule 17.5) and the Rules of Evidence Committee (Rule 43).</p> <p>The committee discussed the meaning of "compelling circumstances and with appropriate safeguards" and concluded that it does not mean inconvenience for a witness or the cost of appearance in person is excessive. A discussion followed about how this impacts participation in adoptions, emergency situations or when a parent is incarcerated in another state.</p> <p>Brent Hall made a motion to strike from Rule 29B(c) the phrase "in compelling circumstances and with appropriate safeguards" and insert "for good cause shown," Judge Lindsley seconded the motion and it passed unanimously.</p>	

The committee considered similar language in Rule 37B (b). After discussion, Alan Sevison made a motion to revise Rule 37B(b) by striking "in compelling circumstances" and inserting "for good cause." David Fureigh seconded the motion and it passed unanimously. The committee agreed that the phrase "appropriate safeguards" should be left in for consistency with Rule 43 of the Rules of Evidence.

The Supreme Court directed staff to the various rules committees to meet and determine whether to use the phrase "remote conferencing" or the phrase "contemporaneous transmission from a different location" throughout the new rules.

Motion #1: Strike in Rule 29B(c) the phrase "in compelling circumstances and with appropriate safeguards" and insert "for good cause shown,"	By: Brent Hall Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____

Motion#2: Strike in Rule 37B(b) "in compelling circumstances" and insert "for good cause."	By: Alan Sevison Second: David Fureigh
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

III. URAP 52-Child Welfare Appeals	CAROL VERDOIA
Carol Verdoia reviewed changes to URAP 52, which are currently out for comment. More detail was added regarding when the time for appeal may be extended by certain motions. This language was incorporated from URAP 4. The new rule also changes the timeframe to file a cross appeal from 15 days to 5 days. The committee discussed the application of the time change to practice, but ultimately determined that it had no concerns sufficient enough to require a comment on the proposed rule.	

AGENDA TOPIC

IV. Discussion on Rule 5 and Rule 7 of the Utah Rules of Civil Procedure and Applicability in Juvenile Court	KATIE GREGORY
<p>Carol Verdoia and Katie Gregory discussed the application of civil and criminal rules in juvenile court, especially since URCP 7 was repealed and reenacted with significant changes within the last year. The consensus was that juvenile court should have its own rule of procedure on these issues, whether in child welfare or delinquency proceedings. The rule should address practices regarding the filing of motions, proposed orders and notices to submit for decision. The committee discussed examples of juvenile court practice such as the submission of proposed orders with motions.</p> <p>Judge Lindsley agreed to create a first draft of a rule for juvenile court with the input of other members of the committee. She will send it out for committee response prior to the next meeting. Alan Sevison will provide assistance to Judge Lindsley on the topic of orders. Pam</p>	

Vickrey also offered to forward information to Judge Lindsley from her prior review of the rules. Another issue that should be considered is how to craft the rule when some filers are pro se and may submit handwritten requests or patron motions.

The committee also agreed to review URCP 5. It is unclear as to what constitutes appropriate service and whether email is acceptable for documents filed after the initial documents are formally served. Private lawyers are also confused as to what constitutes an "electronic filing account." Brent Hall agreed to create a first draft of a juvenile version of URCP 5. Generally the committee agreed that email should be acceptable to all parties with the exception of pro se litigants, who may stipulate to receive email service. The rule may need to account for other documents frequently filed in juvenile court such as court reports and therapist letters. Carol also suggested that Brent look at 78A-6-109 regarding service and process.

The next meeting was set on August 19, 2016 from Noon to 2:00 p.m.

Action Items:

1. Judge Lindsley will prepare a first draft of a juvenile rule related to the requirements of URCP 7 and will circulate it prior to the next meeting for input from members.
2. Alan Sevison will assist Judge Lindsley with language related to the rule's application to orders.
3. Pam Vickrey will forward information to Judge Lindsley from Pam's prior review of the applicable rules.
4. Brent Hall will create and circulate a first draft of a juvenile rule addressing the requirements of URCP 5 and 78A-6-109.