

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

May 4, 2018 Noon to 2:00 p.m. Conference Rooms B & C

MEETING DATE			TIME			LOCATION		
MEMBERS:			Present	Absent	Excused	MEMBERS:		
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Judge Elizabeth Lindsley (by telephone)	<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	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey (by telephone)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sophia Moore	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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:			
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Bridget Koza	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Jean Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Patricia Owen	<input checked="" 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 2, 2018 as written.	By: Debra Jensen	Second: Trish Cassell	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____	

AGENDA TOPIC

II. Rule 5-Definitions		JUDGE LINDSLEY, ALAN SEVISON, AND DEBRA JENSEN	
Committee members reviewed the proposed revisions to Rule 5 contained in the draft of March 2, 2018. The draft changes the definition of ungovernability to reflect statutory changes in H.B. 239. No additional statutory changes occurred during the 2018 legislative session and the committee agreed to move forward with the March 2, 2018 draft of Rule 5.			
Action Item:	Request Supreme Court approval to seek public comment on Rule 5.		
Motion: to approve Rule 5 with the revisions contained in the draft of March 2, 2018	By: Judge Lindsley	Second: Alan Sevison	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____	

AGENDA TOPIC

III. Rule 18-Summons; service of process; notice.		JUDGE LINDSLEY
<p>Judge Lindsley reviewed the changes to Rule 18 discussed at the March 2, 2018 meeting and contained in the draft of Rule 18 dated February 23, 2018. The revisions were made to reflect statutory language contained in 78A-6-109. The committee approved the draft of February 23, 2018 as written.</p>		
Action Item:	Request Supreme Court approval to seek public comment on Rule 18.	
Motion: to approve Rule 18 with the revisions contained in the draft of February 23, 2018.	By: Debra Jensen	Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____	

AGENDA TOPIC

IV. Rule 53-Appearance and Withdrawal of Counsel		BRENT HALL
<p>Brent Hall reviewed the purpose of the proposed changes to Rule 53 and discussed the current juvenile court requirement that motions to withdraw be in writing. The committee discussed issues created in juvenile court if motions to withdraw are made orally. This may impact child welfare cases and delinquency cases differently. The committee discussed whether the proposed procedures give adequate notice to parents if counsel withdraws and further considered conflicts with Rule 19A, which is broader and allows for motions to be made orally or in writing. Members noted that while parents are not required to be present in court if they are represented by counsel, this may lead to parents not being "informed" that their counsel is withdrawing if they are not present.</p> <p>Brent Hall will review the rule in conjunction with the committee's input and bring it back to the next meeting. He will attempt to add language to signal to the court that an inquiry should be made as to the represented party's understanding of their rights when counsel is making a motion to withdraw.</p>		
Action Item:	Place Rule 53 on the agenda for the June 2018 meeting.	

AGENDA TOPIC

V. Rule 9-Detention		ALL
<p>The committee reviewed its December 1, 2017 revisions to Rule 9. The revisions were made to comply with changes to 78A-6-112 and 78A-6-113 contained in H.B. 239 and effective July 1, 2018. The committee determined that no further revisions were necessary after the 2018 legislative session. The committee also discussed whether the case of <i>County of Riverside v. McLaughlin</i>, 500 U.S. 44 (1991) impacted the provisions of Rule 9 pertaining to whether weekends and holidays are excluded in calculating the 48 hour limit on pre-detention hearing custody of juveniles. After discussing legal research completed by one of the juvenile court law clerks, the committee determined that the <i>McLaughlin</i> case did not apply to juveniles.</p>		
Action Item:	Request Supreme Court approval to seek public comment on Rule 9.	

Motion: to approve the December 1, 2017 version of Rule 9 as written.	By: Trish Cassell	Second: Chris Yannelli
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____	

AGENDA TOPIC

VI. Tribal Intervention	CAROL VERDOIA
<p>Martha Pierce prepared a memo for the GAL office regarding intervention by tribes in juvenile court proceedings, which was shared with the committee. ICWA and court rule already provide a procedure for when a tribe wants to formally intervene in a case. However, the committee discussed the need to create a rule governing when a tribal representative wants to participate or be present in court without an attorney. A second issue arises when a tribe has counsel from another state and wants to participate without associating local counsel pro hac vice. A rule governing these issues would be helpful and provide consistency throughout the state on what is allowed. Members discussed the need for clarity and uniformity with minimum standards.</p> <p>Access questions also include access to documents as part of the record. The Intergovernmental Agreements between tribes and the Attorney General’s Office allow for AAGs to share documents with tribes. Alan Sevison will draft a proposal and return it to the committee for additional consideration. Debra Jensen and Kristin Fadel will review Mr. Sevison’s proposal and discuss it with Martha Pierce.</p>	
Action Item:	Alan Sevison to draft a proposal for committee review and also obtain feedback from the Office of Guardian ad litem.

AGENDA TOPIC

VII. Old or New Business	ALL
<p>Carol Verdoia briefly discussed the Supreme Court’s new rule allowing members who have fulfilled their term to seek non-voting emeritus status. Such members would be allowed to participate and give their expertise to the committee, but not vote. She also noted that the committee has three upcoming vacancies and an advertisement will be sent to the bar soliciting new members.</p> <p>The Committee scheduled its next meeting on June 1, 2018 from Noon to 2:00 p.m. Additional meetings were scheduled for October 12, 2018, November 2, 2018 and December 7, 2018.</p>	