

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

October 3, 2014

Noon to 2:00 p.m.

Executive Dining Room

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	<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"/>	Paul Wake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brent Hall	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
Narda Beas-Nordell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Tim Shea	<input checked="" 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 August 1, 2014 as written	By: Judge Mary Manley	Second: Alan Sevison	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

AGENDA TOPIC

II. Corrections to Rule 23A: Hearing on conditions of Section 78A-6-702; bind over to district court		CAROL VERDOIA AND KATIE GREGORY	
Carol Verdoia and Katie Gregory asked the committee to reconsider revisions to Rule 23A due to an error in the version that was previously sent out to bar members for comment. In paragraph (e) the clause "the conditions required by Section 78A-6-702 are present," should have been stricken when the rule was revised. It was inadvertently left in the version that was sent out for comment. Committee members agreed that the clause should be removed and the rule sent out for a second comment period.			
Action Item:	Katie Gregory will revise Rule 23A and send it out for a second comment period. She and Carol Verdoia will consider whether to request the approval under emergency rule making procedures.		
Motion: To amend Rule 23A(e) by deleting the clause "the conditions required by Section 78A-6-702 are present,"	By: Judge Elizabeth Lindsley	Second: Paul Wake	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

AGENDA TOPIC

III. Proposed Rule 29B: Remote Access to Court Hearings (Delinquency)		CAROL VERDOIA
<p>The committee reviewed the draft rule dated August 1, 2014 and Alan Sevison’s proposal for additional revisions contained in his email of August 8, 2014. Judge Lindsley presented concerns and comments from the Board of Juvenile Court Judges. The Board felt the use of the terms "compelling circumstances" and "appropriate safeguards" in paragraph 29B(c) was vague.</p> <p>Judge Lindsley's made a motion to adopt a version of Rule 29B which contains paragraph (a) with the changes made on August 1, 2014, paragraph (b) in the form proposed by Alan Sevison in his email and in paragraph (c) strike the phrase "for good cause" and begin the paragraph "In compelling circumstances". Paul Wake seconded the motion. A copy of the approved language is attached.</p> <p>Discussion followed regarding whether the proposed language adequately captures the concept that the judge, too, may participate from an alternative location. Another concern was that if the judge is at an alternative location, the state's attorney would also have to go to that location. Tim Shea reported that a Judicial Council administrative rule is currently under consideration and would permit judges to attend any hearing by contemporaneous transmission. Committee members agreed that if the Council creates a rule on the issue, it would alleviate the need to address the issue in Rule 29B. Following lengthy discussion, the committee voted and the motion passed unanimously.</p>		
Action Item:	Katie Gregory will revise Rule 29B and send it out for public comment.	
Motion: to adopt a version of Rule 29B which contains paragraph (a) with the changes made on August 1, 2014, paragraph (b) in the form proposed by Alan Sevison in his email and in paragraph (c) strike the phrase "for good cause" and begin the paragraph "In compelling circumstances".	By: Judge Elizabeth Lindsley Second: Paul Wake	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____	

AGENDA TOPIC

IV. Proposed Rule 37B: Remote Access to Court Hearings (Abuse/Neglect/Dependency)		CAROL VERDOIA
<p>The committee consider Rule 37B and approved the following revised version:</p> <p>37B (a): Upon motion of a party and for good cause shown, the court may permit a party or a minor's parent, guardian, or custodian to attend any abuse, neglect, dependency, substantiation, or termination of parental rights proceeding by contemporaneous transmission from a different location. 37B (b): strike "For good cause and begin the sentence "In compelling circumstances..."</p> <p>Tim Shea commended the committee for its timely review and completion of Rule 29B and Rule 37B. Carol Verdoia thanked Mr. Shea for his assistance in this process.</p>		

Action Item:	Katie Gregory will revise Rule 37B and send it out for public comment.
Motion: To revise proposed Rules 37B to read as follows: "(a) Upon motion of a party and for good cause shown, the court may permit a party or a minor's parent, guardian, or custodian to attend any abuse, neglect, dependency, substantiation, or termination of parental rights proceeding by contemporaneous transmission from a different location." And in paragraph (b), strike "For good cause and begin the sentence "In compelling circumstances..."	By: Judge Elizabeth Lindsley Second: Alan Sevison
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____

AGENDA TOPIC

V. Updating URJP 2	CAROL VERDOIA
<p>Paragraph (a) of Rule 2 uses the outdated phrase "permanent deprivation of parent rights." The committee agreed that the phrase should be deleted and replace with "termination of parental rights."</p> <p>The committee tabled the remainder of the agenda items to January 30, 2015. Carol Verdoia will prepare a summary of the discovery issues to be addressed and will forward it to committee members in mid-January.</p>	
Action Item:	Katie Gregory will revise Rule 2 and send it out for comment.
Motion: To delete in Rule 2(a) the phrase "permanent deprivation of parental rights" and replace it with "termination of parental rights"	By: Alan Sevison Second: David Fureigh
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor _____ # Opposed _____

Rule 29B. Hearings with contemporaneous transmission from a different location.

(As approved by URJP committee on 10-03-2014)

(a) In any delinquency proceeding or proceeding under Section 78A-6-702 or Section 78A-6-703 the court may conduct the following hearings with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location:

(a)(1) contempt

(a)(2) detention;

(a)(3) motion;

(a)(4) review; and

(a)(5) warrant.

(b) Except as provided in Paragraph (a), upon motion of a party and for good cause shown, the court may permit a party or a minor's parent, guardian, or custodian to attend any delinquency hearing or hearing under Section 78A-6-702 or Section 78A-6-703 by contemporaneous transmission from a different location.

(c) In compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location if the party not calling the witness waives confrontation of the witness in person.