

# Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

## Meeting Agenda

*William Russell, Vice-Chair*

Location: Matheson Courthouse, Salt Lake City, UT

Date: October 4, 2024

Time: 12:00 pm – 2:00 pm

<b>Action:</b> Welcome and approval of September 6, 2024, meeting minutes.	Tab 1	William Russell
<b>Discussion &amp; Action:</b> <a href="#">Rule 16</a> . Transfer of delinquency case. <ul style="list-style-type: none"><li><i>The proposed amendments to Rule 16 aim to provide clear and consistent direction regarding the transfer of and venue in a delinquency case.</i></li></ul>	Tab 2	All
<b>Discussion &amp; Action:</b> <a href="#">Rule 29</a> . Multiple county offenses. <ul style="list-style-type: none"><li><i>The proposed amendments to Rule 29 also aim to provide clear and consistent direction regarding the transfer of and venue in a delinquency case.</i></li></ul>	Tab 3	All
<b>Discussion &amp; Action:</b> <a href="#">Rule 14</a> . Reception of referral; preliminary determination. <ul style="list-style-type: none"><li><i><a href="#">Comment period</a> closed on September 29, 2024, and there were no comments.</i></li></ul>	Tab 4	All
<b>Discussion:</b> Old business or new business.		All

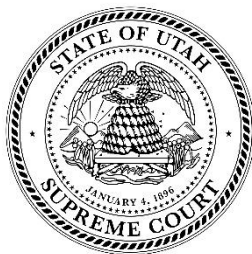
[URJP Committee Site](#)

Meeting Schedule:

November 1, 2024

December 6, 2024

# **TAB 1**



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**Utah Supreme Court's  
Advisory Committee on the Rules of Juvenile Procedure**

**Draft Meeting Minutes**

*William Russell, Vice-Chair*

Location: Webex Meeting

Date: September 6, 2024

Time: 12:00 p.m. – 2:00 p.m.

<b><u>Attendees:</u></b> Matthew Johnson, Chair William Russell, Vice Chair Adrianna Davis David Fureigh, Emeritus Member Dawn Hautamaki Jordan Putnam Janette White Judge David Johnson Michelle Jeffs Sophia Moore	<b><u>Excused Members:</u></b> Arek Butler Elizabeth Ferrin James Smith Judge Debra Jensen Thomas Luchs
	<b><u>Guests:</u></b> Daniel Meza-Rincon Judge Michael Leavitt
<b><u>Staff:</u></b> Lisa McQuarrie, Juvenile Law Clerk Tyler Herrera, Juvenile Law Clerk Raymundo Gallardo	

15 **1. Welcome and approval of the August 2, 2024 Meeting Minutes.** (William Russell)

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17 Vice-chair William Russell facilitated the September 6, 2024, meeting. Mr. Russell  
18 welcomed everyone to the meeting, including guest presenter Judge Michael Leavitt  
19 and the newest AOC juvenile court law clerk, Tyler Herrera.

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21 Mr. Russell asked the committee for approval of the August 2, 2024, meeting minutes.  
22 Ms. Davis moved to approve the minutes as presented. Judge Johnson seconded the  
23 motion, and it passed unanimously.

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25 **2. Discussion & Action: Rule 16. Transfer of delinquency case.** (Judge Michael Leavitt)

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27 Judge Leavitt began by thanking the Committee for their ongoing efforts to clarify  
28 and improve the Utah Juvenile Rules of Procedure. As a member of and on behalf of  
29 the Board of Juvenile Court Judges, Judge Leavitt proposed amendments to Rule 16  
30 and Rule 29 that promote the best practice of assigning a “home judge” to a case. In  
31 cases where a minor may have committed offenses outside of their county of  
32 residence, the best practice is often to transfer a case to the county of occurrence for  
33 adjudicatory proceedings, and then transfer the case back to the county of residence  
34 for disposition. Rule 16, however, is permissive and there are differing views across  
35 the state as to when exactly a case is transferred from a “home judge” to the county of  
36 occurrence and then back to the “home judge.”

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38 The Committee agrees that this practice should be standardized but echoed the  
39 differing opinions regarding the timing of the transfer from a “home judge” to the  
40 county of occurrence. That is, Does the case get transferred after denials are entered  
41 at an arraignment hearing, or only when the case cannot be resolved without going to  
42 trial?

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44 The Committee also raised concerns over prosecuting offices’ ability to communicate  
45 effectively with victims and with ensuring victim representation at hearings. Another  
46 concern raised was effective communication with the referring law enforcement  
47 agency. One final concern was the proper handling of pretrial motions. Brief  
48 discussion ensued regarding two motions: suppression and competency. Members  
49 seemed to agree that suppression motions should be handled by the trial judge, but  
50 competency motions are best suited for the “home judge.”

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52 Because there are several issues to consider when standardizing this best practice, it  
53 was agreed that a workgroup should be formed to further amend Rule 16 outside of  
54 the regularly scheduled committee meeting. Judge David Johnson, Janette White,  
55 Michelle Jeffs, and William Russell volunteered to make-up the workgroup. The  
56 workgroup will then present drafts of Rule 16 and Rule 29 for further discussion at  
57 the October meeting.

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**3. Discussion & Action: Rule 29. Multiple County Offenses.** (Judge Michael Leavitt)

Judge Leavitt proposed amending Rule 29 in light of his proposed amendments to Rule 16 as Rule 29 deals with similar issues. The workgroup identified to amend Rule 16 will also amend Rule 29.

**4. Discussion: Manner of Appearance Rules** (All)

The Supreme Court asked the criminal rules, civil rules, and juvenile rules committees to discuss one particular public comment made to the recently approved Rule 87 of the Utah Rules of Civil Procedure regarding manner of appearance. The comment expresses concern over recruitment of pro bono counsel should courts decide not to allow pro bono counsel to appear remotely. The comment suggests adding pro bono counsel as an additional factor courts should consider when setting a hearing format. The Supreme Court would like this Committee to consider if pro bono counsel should be added to Rule 61 of the Utah Rules of Juvenile Procedure. After some discussion, the Committee agreed this was not an issue experienced in the juvenile court. Furthermore, current factors in Rule 61(b)(1) and (b)(4) already address participant preference and time and economic impacts on any particular participant. As a result, the Committee discussed the comment but decided to take no action.

**5. Old business/new business:** (All)

Mr. Gallardo reminded the Committee that the October 4, 2024, meeting is scheduled to be an in-person meeting at the Matheson Courthouse, but a remote option will be available. Lunch will be provided. Mr. Gallardo reviewed a list of rules currently in the rule amendment process. Rule 61 is now effective. As a result, Rules 29B and 37B are now repealed. Revisions to Rules 5, 13A, 15, 19C, and 22 will become effective November 1, 2024. Rule 31 will be repealed effective November 1<sup>st</sup>. Rule 14 is currently out for public comment.

No additional old or new business was discussed.

The meeting adjourned at 1:05 PM. The next meeting will be held on October 4, 2024, at the Matheson Courthouse and via Webex.

# TAB 2

1 **Rule 16. Transfer of delinquency case and venue.**

2 (a) **Transfer of delinquency case for preliminary inquiry.**

3 (1) When a minor resides in a county within the state other than the county in  
4 which the alleged delinquency occurred, and it appears that the minor qualifies  
5 for a nonjudicial adjustment pursuant to statute, the ~~intake~~ probation officer of the  
6 county of occurrence ~~must~~shall, unless otherwise directed by court order, transfer  
7 the referral to the county of residence for a preliminary inquiry to be conducted in  
8 accordance with Rule 15. If any of the following circumstances are found to exist  
9 at the time of preliminary inquiry, the referral ~~must~~shall be transferred back to the  
10 county of occurrence for filing of a petition and further proceedings:

11 (A) a minor, the child or the child's parent, guardian, or custodian cannot  
12 be located or failed to appear after notice for the preliminary inquiry;

13 (B) a minor, the child or the child's parent, guardian, or custodian declines  
14 an offer for a nonjudicial adjustment;

15 (C) a minor or the minor's custodian cannot be located or fails to appear  
16 after notice for the preliminary inquiry or the minor declines an offer for a  
17 nonjudicial adjustment;

18 (D) there are circumstances in the case that require adjudication in the  
19 county of occurrence in the interest of justice; or

20 (E) there are multiple minors involved who live in different counties.

21 (b) Arrest and pretrial proceedings. ~~If the referral is not returned to the county of~~  
22 ~~occurrence, a petition may be filed in the county of residence, and the arrest and~~  
23 ~~all further proceedings may be conducted in that county if the petition is admitted.~~

24 (1) Upon filing of a petition, the arrest and initial pretrial conference will be  
25 held in the district and county where the minor resides. If the petition is resolved  
26 without a trial, venue will remain in the minor's county of residence.

27 (2) Prosecutors and appointed defense counsel in both the county of occurrence  
28 and the county of residence must cooperate with each other both in the provision  
29 of discovery to defense counsel and to assist in the resolution or litigation of each  
30 case.

31 (3) Prosecutors attempting to resolve petitions must observe the rights of alleged  
32 victims in counties of occurrence.

33 (c) **Transfer of venue.** ~~After the filing of a petition alleging a delinquency or criminal~~  
34 ~~action, the court may transfer the case to the district where the minor resides or the~~  
35 ~~district where the violation of law or ordinance is alleged to have occurred. The court~~  
36 ~~may, in its discretion, after adjudication certify the case for disposition to the court of the~~  
37 ~~district in which the minor resides.~~

38 (1) Once the court in the county of residence determines that the matter cannot be  
39 resolved, venue will be transferred to the county of occurrence for trial scheduling.

40 (2) Any motions related to the admission, exclusion, or suppression of evidence at  
41 trial will be filed in and ruled upon by the trial court.

42 (3) Motions for inquiry into competency may be raised and ruled upon in either  
43 court.

44 (4) If the petition is adjudicated, the case will be transferred back to the court in  
45 the county where the minor resides for disposition and continuing jurisdiction.

46 (d) **Transmittal of pertinent documents.** With each transfer, ~~the~~ transferring or  
47 certifying court ~~shall~~will notify the receiving court and transmit all documents and legal  
48 and social records, or certified copies thereof, to the receiving court. The receiving court  
49 ~~shall~~will proceed with the case from the point where the preceding court transferred the  
50 case as if the petition had been originally filed or the adjudication had been  
51 originally made in that court.



52 (e) Dismissal of petition. The dismissal of a petition in one district where the dismissal  
53 is without prejudice and where there has been no adjudication upon the merits ~~shall~~does  
54 not preclude refiling within the same district or another district where venue is proper.

1 **Rule 16. Transfer of delinquency case and venue.**

2 (a) **Transfer of delinquency case for preliminary inquiry.**

3 (1) When a minor resides in a county within the state other than the county in  
4 which the alleged delinquency occurred, and it appears that the minor qualifies  
5 for a nonjudicial adjustment pursuant to statute, the probation officer of the county  
6 of occurrence must, unless otherwise directed by court order, transfer the referral  
7 to the county of residence for a preliminary inquiry to be conducted in accordance  
8 with Rule 15. If any of the following circumstances are found to exist at the time  
9 of preliminary inquiry, the referral must be transferred back to the county of  
10 occurrence for filing of a petition and further proceedings:

11 (A) a minor, the child or the child's parent, guardian, or custodian cannot  
12 be located or failed to appear after notice for the preliminary inquiry;

13 (B) a minor, the child or the child's parent, guardian, or custodian declines  
14 an offer for a nonjudicial adjustment;

15 (C) a minor or the minor's custodian cannot be located or fails to appear  
16 after notice for the preliminary inquiry or the minor declines an offer for a  
17 nonjudicial adjustment;

18 (D) there are circumstances in the case that require adjudication in the  
19 county of occurrence in the interest of justice; or

20 (E) there are multiple minors involved who live in different counties.

21 (b) **Arraignment and pretrial proceedings.**

22 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be  
23 held in the district and county where the minor resides. If the petition is resolved  
24 without a trial, venue will remain in the minor's county of residence.

25 (2) Prosecutors and appointed defense counsel in both the county of occurrence  
26 and the county of residence must cooperate with each other both in the provision

27 of discovery to defense counsel and to assist in the resolution or litigation of each  
28 case.

29 (3) Prosecutors attempting to resolve petitions must observe the rights of alleged  
30 victims in counties of occurrence.

31 **(c) Transfer of venue.**

32 (1) Once the court in the county of residence determines that the matter cannot be  
33 resolved, venue will be transferred to the county of occurrence for trial scheduling.

34 (2) Any motions related to the admission, exclusion, or suppression of evidence at  
35 trial will be filed in and ruled upon by the trial court.

36 (3) Motions for inquiry into competency may be raised and ruled upon in either  
37 court.

38 (4) If the petition is adjudicated, the case will be transferred back to the court in  
39 the county where the minor resides for disposition and continuing jurisdiction.

40 **(d) Transmittal of pertinent documents.** With each transfer, the transferring or certifying  
41 court will notify the receiving court and transmit all documents and legal and  
42 social records, or certified copies thereof, to the receiving court. The receiving court will  
43 proceed with the case from the point where the preceding court transferred the case as if  
44 the petition had been originally filed or the adjudication had been originally made in that  
45 court.

46 **(e) Dismissal of petition.** The dismissal of a petition in one district where the dismissal  
47 is without prejudice and where there has been no adjudication upon the merits does not  
48 preclude refiling within the same district or another district where venue is proper.

# TAB 3

1 **Rule 29. Multiple county offenses.**

2 (a) Arraignment and pretrial proceedings.

3 (1) When a minor is charged in a petition with the commission of offenses in more  
4 than one county, arraignment and pretrial all-proceedings ~~except the trial may take~~  
5 ~~place on all charges in the county in which the petition is filed~~ must take place in  
6 the county where the minor resides. If the petition is resolved without a trial,  
7 venue will remain in the minor's county of residence.

8 (2) Prosecutors and appointed defense counsel in both the county of occurrence  
9 and the county of residence must cooperate with each other both in the provision  
10 of discovery to defense counsel and to assist in the resolution or litigation of each  
11 case.

12 (3) The prosecutor in the minor's county of residence has the authority to resolve  
13 out-of-county charges after consultation with the prosecutor in the county or  
14 counties where the alleged offenses occurred.

15 (4) Prosecutors attempting to resolve petitions must observe the rights of alleged  
16 victims in counties of occurrence.

17 (b) Transfer of venue. ~~If a minor denies some or all of the charges for those offenses~~  
18 ~~committed outside the county in which the arraignment takes place, the court may enter~~  
19 ~~such denial and set the matter for a pre-trial conference, or refer such charges to the~~  
20 ~~prosecuting attorney for the county in which the offenses are alleged to have occurred. If~~  
21 ~~the offenses are alleged to have occurred in a county which is within the same judicial~~  
22 ~~district, the arraignment court may order that the matter be scheduled for trial in that~~  
23 ~~county.~~

24 (1) Once the court in the county of residence determines that the matter cannot be  
25 resolved, venue will be transferred to any county of occurrence for trial  
26 scheduling.

27 (2) Any motions related to the admission, exclusion, or suppression of evidence at  
28 trial will be filed in and ruled upon by the trial court.

29 (3) Motions for inquiry into competency may be raised and ruled upon in either  
30 court.

31 (4) If the petition is adjudicated, the case will be transferred back to the court in  
32 the county where the minor resides for disposition and continuing jurisdiction.

33 (c) Transmittal of pertinent documents. ~~Out of county charges may be included in a~~  
34 ~~proposed pleas agreement as provided in Rule 25. Such charges shall not be dismissed~~  
35 ~~by the court except on motion of the prosecuting attorney for the county where the~~  
36 ~~offenses are alleged to have occurred, or on the court's own motion as part of a plea~~  
37 ~~agreement approved by the court.~~

38 ~~(d)~~ Where charges are referred to another county for further proceedings, the clerk of the  
39 court where the petition was filed ~~shall~~will transmit all pertinent documents, including  
40 the petition, summons, minutes and orders to the receiving court clerk. The receiving  
41 court ~~shall~~will proceed with the case from the point where the preceding court  
42 transferred the case as if the petition had been originally filed ~~and arraignment held~~ in  
43 that court.

1 **Rule 29. Multiple county offenses.**

2 (a) **Arraignment and pretrial proceedings.**

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4 than one county, arraignment and pretrial proceedings must take place in the  
5 county where the minor resides. If the petition is resolved without a trial, venue  
6 will remain in the minor's county of residence.

7 (2) Prosecutors and appointed defense counsel in both the county of occurrence  
8 and the county of residence must cooperate with each other both in the provision  
9 of discovery to defense counsel and to assist in the resolution or litigation of each  
10 case.

11 (3) The prosecutor in the minor's county of residence has the authority to resolve  
12 out-of-county charges after consultation with the prosecutor in the county or  
13 counties where the alleged offenses occurred.

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15 victims in counties of occurrence.

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17 (1) Once the court in the county of residence determines that the matter cannot be  
18 resolved, venue will be transferred to any county of occurrence for trial  
19 scheduling.

20 (2) Any motions related to the admission, exclusion, or suppression of evidence at  
21 trial will be filed in and ruled upon by the trial court.

22 (3) Motions for inquiry into competency may be raised and ruled upon in either  
23 court.

24 (4) If the petition is adjudicated, the case will be transferred back to the court in  
25 the county where the minor resides for disposition and continuing jurisdiction.

26 (c) **Transmittal of pertinent documents.** Where charges are referred to another county  
27 for further proceedings, the clerk of the court where the petition was filed will transmit  
28 all pertinent documents, including the petition, summons, minutes and orders to the  
29 receiving court clerk. The receiving court will proceed with the case from the point where  
30 the preceding court transferred the case as if the petition had been originally filed in that  
31 court.



# TAB 4

1 **Rule 14. Reception of referral; preliminary determination.**

2 (a) **Delinquency Cases.**

3 ~~(1)~~ A law enforcement officer or any other person having knowledge of or reason  
4 to believe facts that would bring a minor within the court's jurisdiction for  
5 delinquency may refer the minor to the court by submitting a written report, on  
6 forms prescribed by the court. The report ~~must~~~~shall~~ indicate whether the alleged  
7 offense is a felony, misdemeanor, infraction, or status offense. A juvenile probation  
8 officer must~~An intake officer of the probation department shall~~ make a  
9 preliminary determination, ~~with the assistance of the prosecuting attorney if~~  
10 ~~necessary~~, as to whether the minor qualifies for a nonjudicial adjustment. If the  
11 referral does not establish that the minor qualifies for a nonjudicial adjustment,  
12 the ~~intake~~probation officer ~~must~~~~shall~~ forward the referral to the prosecutor.

13 (b) **Cases Involving Neglect, Dependency, or Abuse.** Pursuant to Utah Code, Title 80,  
14 Chapter 2, Child Welfare Services, complaints and reports involving the neglect, abuse,  
15 or dependency of minors ~~must~~~~shall~~ be directed to the nearest office of the Division of  
16 Child and Family Services for investigation, which agency may, with the assistance of the  
17 attorney general, file a petition with the court to initiate judicial proceedings.

18 (c) **Coordination of Criminal and Delinquency Cases Pending in District Court and**  
19 **Juvenile Court; notice to the court.**

20 (1) ~~Criminal and delinquency cases; Notice to the court.~~

21 ~~(A)~~ In a criminal case all parties have a continuing duty to notify the court  
22 of a delinquency case pending in juvenile court in which the defendant is a  
23 party.

24 ~~(B)~~(2) In a delinquency case all parties have a continuing duty to notify the  
25 court:

26 ~~(1)~~(A) of a criminal or delinquency case in which the respondent or  
27 the respondent's parent is a party; and

28                            ~~(ii)~~(B) of an abuse, neglect, or dependency case in which the  
29                            respondent is the subject of the petition or the respondent's parent is  
30                            a party.

31                            ~~(C)~~(3) The notice ~~must~~shall be filed with a party's initial pleading or as soon  
32                            as practicable after the party becomes aware of the other pending case. The  
33                            notice ~~must~~shall include the case caption, file number, and name of the  
34                            judge or commissioner in the other case.

1 **Rule 14. Reception of referral; preliminary determination.**

2 (a) **Delinquency Cases.** A law enforcement officer or any other person having knowledge  
3 of or reason to believe facts that would bring a minor within the court's jurisdiction for  
4 delinquency may refer the minor to the court by submitting a written report, on forms  
5 prescribed by the court. The report must indicate whether the alleged offense is a felony,  
6 misdemeanor, infraction, or status offense. A juvenile probation officer must make a  
7 preliminary determination as to whether the minor qualifies for a nonjudicial adjustment.  
8 If the referral does not establish that the minor qualifies for a nonjudicial adjustment, the  
9 probation officer must forward the referral to the prosecutor.

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16 **Juvenile Court; Notice to the court.**

17 (1) In a criminal case all parties have a continuing duty to notify the court of a  
18 delinquency case pending in juvenile court in which the defendant is a party.

19 (2) In a delinquency case all parties have a continuing duty to notify the court:

20 (A) of a criminal or delinquency case in which the respondent or the  
21 respondent's parent is a party; and

22 (B) of an abuse, neglect, or dependency case in which the respondent is the  
23 subject of the petition or the respondent's parent is a party.

24 (3) The notice must be filed with a party's initial pleading or as soon as practicable  
25 after the party becomes aware of the other pending case. The notice must include  
26 the case caption, file number, and name of the judge or commissioner in the other  
27 case.