



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

Meeting Minutes

William Russell, Vice-Chair

Location: Matheson Courthouse, Salt Lake City, UT

Date: October 4, 2024

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> Matthew Johnson, Chair William Russell, Vice Chair Arek Butler David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin James Smith Janette White Jordan Putnam Judge David Johnson Judge Debra Jensen Michelle Jeffs Sophia Moore Thomas Luchs</p>	<p><u>Excused Members:</u> Adrianna Davis</p>
<p><u>Staff:</u> Tyler Herrera, Juvenile Law Clerk Raymundo Gallardo</p>	<p><u>Guests:</u> Jacqueline Carlton, Office of Legislative Research and General Counsel</p>

1. Welcome and approval of the September 6, 2024 Meeting Minutes. (William Russell)

Vice-chair William Russell facilitated the October 4, 2024, meeting. Mr. Russell welcomed everyone to the meeting and asked for introductions.

Mr. Russell asked the Committee for approval of the September 6, 2024, meeting minutes. Ms. White moved to approve the minutes as presented. Ms. Ferrin seconded the motion, and it passed unanimously.

2. Discussion & Action: Rule 16. Transfer of delinquency case. (All)

Mr. Russell reminded the Committee of Judge Michael Leavitt's proposals to amend Rule 16 and Rule 29 with the goal of memorializing the practice of keeping a juvenile delinquency case with the "home judge." Mr. Russell then summarized the workgroup's recent work on Rule 16, including a restructure and reorganization of the rule. (The workgroup consists of Judge Johnson, Michelle Jeffs, Janette White, and Bill Russell.)

A conversation then ensued regarding how a decision is made to transfer a delinquency case. Members agreed that it is the court who issues an order to transfer a case to the county of occurrence after hearing from parties that the petition cannot be resolved.

The Committee then discussed the issue of competency and which court—the court in the county of residence or the court in the county of occurrence—is best suited to address competency. The workgroup agreed that it is best to concede that competency can be raised and ruled upon in either court despite possible "judge shopping" by parties.

Regarding motions related to evidence, because the referring law enforcement agency and the alleged victims are located in the county of occurrence, the Committee agreed that those should be filed in and ruled upon by the trial court.

The Committee returned to the matter of competency. Judge Jensen pointed out that should a youth be found not competent but competency is attainable, the attainment process can take several months or even more than a year. Judge Jensen shared that it is best for the "home judge" to oversee competency. Judge Johnson proposed a "Rule 100 conference" as a solution to Judge Jensen's concern. Judge Johnson suggested that in this scenario both the judge in the county of occurrence and the judge in the county of residence may choose to confer regarding the competency motion. The Committee then proceeded to further amend subparagraph (3) of paragraph (c) to encourage communication between both judges with the goal of determining the appropriate venue for competency action.

The Committee then looked at proposed paragraph (c)(1) and further amended it to indicate that the county of occurrence will be responsible for “trial proceedings and scheduling.”

Mr. Russell then proposed further amending paragraph (a) to clarify when and under what circumstances does a referral get sent to the county of occurrence for screening, or determination to file a petition or not file, after a probation officer meets with a youth and family for a preliminary inquiry. The Committee also removed redundant and objectionable subparagraphs. Mr. Russell asked for a motion to amend and restructure paragraph (a). Ms. Moore made the motion to amend paragraph (a) as suggested by Mr. Russell. A brief discussion ensued regarding the removal of current paragraph (a)(B) and the role of a parent or legal guardian during a preliminary inquiry, where a nonjudicial adjustment may be offered. Mr. Russell pointed out that statute expressly states that it is a minor’s decision, not the parent’s, to accept or reject a nonjudicial adjustment. Because that particular point is not procedural, the Committee agreed to remove paragraph (a)(B). Ms. Jeffs seconded the motion made by Ms. Moore. The motion passed unanimously.

The Committee moved to further amending paragraph (d). The proposed amendments remove language regarding the obsolete transmission of documents and reflect the modern process of uploading documents into the CARE system. Committee members then asked about and received a clerk of court perspective from Ms. Hautamaki. Ms. Hautamaki also agreed to send the proposed changes to other clerks of court for their feedback. Because additional changes to Rule 16 may be necessary, Mr. Russell proposed that the workgroup meet again in October. Ms. Hautamaki and Judge Jensen also joined the workgroup. Ms. Ferrin made the motion to amend paragraph (d) as suggested by Mr. Russell. Ms. Jeffs seconded the motion. The motion passed unanimously.

3. Discussion & Action: Rule 29. Multiple County Offenses. (All)

Next, the Committee discussed amending related Rule 29 by transferring the language of that proposed above regarding Rule 16 to Rule 29.

Mr. Fureigh then proposed combining rules 16 and 29 into one rule. Both rules seem to address the same process—the transfer of a delinquency case—and the only difference seems to be that Rule 16 addresses two counties, the county of occurrence and the county of residence, while Rule 29 addresses more than two counties, the counties of occurrence and the county of residence. Mr. Russell asked the workgroup to discuss merging Rule 16 and Rule 29 at their next workgroup meeting. Ms. Jeffs made a motion to amend Rule 29 as discussed and refer the rule to the workgroup for further discussion and changes. Ms. Hautamaki seconded the motion. The motion passed unanimously.

The Committee briefly discussed the issue of determining a youth's residence. For the most part, a youth's residence is established by a county or district attorney, the assigned probation officer, or JJYS detention staff, when a youth is admitted to secure detention.

4. Discussion: Rule 14. Reception of referral; preliminary determination. (All)

Mr. Gallardo presented Rule 14 after going through a public comment period. The rule did not receive any public comments. Mr. Gallardo then had further questions for the Committee about a few procedures in the rule. For example, the rule requires that law enforcement submit "a written report, on forms prescribed by the court." Mr. Gallardo asked if the Committee was aware of these forms. Ms. Hautamaki responded that some districts have a form that their local law enforcement use in addition to the police report, but the practice is not a consistent practice at the district level and at the law enforcement agency level. Ms. Hautamaki offered to bring this issue before the Administrative Office of the Courts. Mr. Fureigh also noted that the language in question allows for each district and law enforcement agency to follow its own procedures, so it is best to leave that specific language as it is. The Committee agreed.

Mr. Gallardo then asked if paragraph (b) of Rule 14 incorrectly limits the filing of a neglect, abuse, or dependency petition only to DCFS and the Attorney General's Office. In light of the mandatory reporting context of Rule 14, Mr. Fureigh clarified that paragraph (b) is specific to DCFS and the AG's Office. The Committee also agreed that this paragraph should remain unchanged.

Mr. Russell asked the Committee for a motion to place this rule before the Supreme Court for approval and publishing. Ms. White made the motion to take Rule 14 to the Supreme Court for approval and publishing. Mr. Butler seconded the motion. The motion passed unanimously.

5. Old business/new business: (All)

No additional old or new business was discussed.

Mr. Gallardo requested to move the November 1, 2024 meeting start time to 12:30 p.m. due to a commitment earlier that morning. The November 1st meeting will begin at 12:30 p.m., and Mr. Gallardo will send an email to committee members requesting a count of who will and who won't be attending.

The meeting adjourned at 1:45 p.m. The next meeting will be held on November 1, 2024 via Webex.