



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

Draft Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: November 1, 2024

Time: 12:30 p.m. – 2:00 p.m.

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

1. Welcome and approval of the October 4, 2024 Meeting Minutes. (Matthew Johnson)

Chair Matt Johnson facilitated the November 1, 2024, meeting. Mr. Johnson welcomed everyone to the meeting, introduced new Juvenile Court Law Clerk Joe Mitchell, and asked for member introductions.

Mr. Johnson then asked the Committee for approval of the October 4, 2024 meeting minutes. Ms. Jeffs moved to approve the minutes as presented. Ms. Davis seconded the motion, and it passed unanimously.

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

Mr. Johnson thanked the member workgroup that worked to amend Rule 16 as currently proposed. The Committee reviewed the changes. Mr. Gallardo noted that Ms. Hautamaki shared the proposed rule changes with the state's clerk of courts, and there was a comment regarding the applicability of Rule 16 and its proposed changes to bind over cases. Judge Jensen shared her experience working through a bind over case. In short, Judge Jensen, as the judge in the county of occurrence, communicated with the judge in the county of residence and both formulated a plan, which entailed Judge Jensen holding the preliminary hearing in her courtroom and the second judge – the home judge – would hear the factors that help decide whether the case is bound over. Nevertheless, after a review of statute, Judge Jensen indicated she didn't believe any additional changes to Rule 16 were necessary to address this particular case circumstance. Mr. Johnson then asked the Committee for a motion to present Rule 16 to the Supreme Court for purposes of sending Rule 16 through the public comment period. Ms. Davis made the motion, and Judge Johnson seconded the motion. The motion passed unanimously.

After some discussion regarding Rule 29 – see below – the Committee returned to discuss the issue of residence and the phrases “county of residence” and “minor resides,” as used throughout Rule 16 and Rule 29. Paragraph (b)(1) of Rule 16 was further amended from “Upon filing of a petition, the arraignment and initial pretrial conference will be held in the district and county where the minor resides.” to “Upon filing of a petition, the arraignment and initial pretrial conference will be held *in the minor's district and county of residence.*” This change was made to show consistency in language. “County of residence” is a phrase used throughout Rule 16 and Rule 29. A similar change was made to paragraph (c)(4) of Rule 16. This paragraph read, “If the petition is adjudicated, the case will be transferred back to the court in the county where the minor resides for disposition and continuing jurisdiction.” Paragraph (c)(4) was amended to read, “If the petition is adjudicated, the case will be transferred back *to the court in the minor's county of residence* for disposition and continuing jurisdiction.”

Judge Johnson noted that, although consistent language is helpful, there are other rules, e.g., Rule 16A and Rule 17, that do not use “county of residence,” but instead use the plain language of “where the minor or parent resides” or “residence address.” Judge Johnson stressed that the minor’s or parent’s “residence” as used throughout the entire body of rules means permanent residence, not temporary residence.

Because additional changes were made to the rule, Mr. Johnson asked for a second motion. Ms. Hautamaki made the motion to present Rule 16 to the Supreme Court and request an initial public comment period. Judge Johnson seconded the motion. The motion passed unanimously.

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

The workgroup’s proposed changes to Rule 29 were presented. The Committee expressed their gratitude to Bill Russell for his work on Rule 29. Mr. Gallardo asked the Committee if the language in proposed paragraph (a) relating to “arraignment and pretrial proceedings” should also be included in proposed paragraph (b). The Committee agreed to add “pretrial proceedings” to paragraph (b) so that it now reads, “After arraignment *and pretrial proceedings*, all further proceedings in multiple county offenses will be governed by the provisions of Rule 16.”

The Committee proceeded to discuss the issue of residence and the language “where the minor resides” in paragraph (a). This proposed language was further amended to reflect the consistent language of “the minor’s county of residence” as it is used in the last sentence of the same paragraph. This same issue gave rise to the changes noted above regarding Rule 16.

Mr. Johnson then asked for a motion to present Rule 29 to the Supreme Court and request an initial public comment period. Ms. Jeffs made that motion, and Judge Jensen seconded the motion. The motion passed unanimously.

4. Discussion: *In re J.M.*, 2024 UT App 147. (All)

Mr. Johnson shared that the Court of Appeals has asked this Committee to consider adopting a rule that allows for a process by which no-contest responses pursuant to Rule 34(e) may be withdrawn by parties in a child welfare case.

Mr. Luchs stated he’s discussed this issue with Ms. Moore and they believe this issue should be addressed. Mr. Luchs added, however, that Rule 34(e) responses may be subject to the procedures outlined in Rule 59 and Rule 60 of the Utah Civil Rules of Procedure. Mr. Fureigh commented that a Rule 34(e) response is not a plea despite the response often likened to a “no-contest” plea in a criminal case. Committee members then had a conversation regarding the colloquy between judges and parents

and the emphasis on promises made to parents. It was also mentioned that the court is not bound to any agreements between parties that would lead to parents to respond in a certain way to a petition. The Committee agreed that because a Rule 34(e) response is not a plea but is instead a response that is civil in nature, Rule 34 should be amended to reflect the remedies outlined in Rule 59 and Rule 60 of the Utah Civil Rules of Procedure. This issue was not finalized but placed on the December 6, 2024 meeting agenda to allow for additional member input.

5. Discussion & Action - Proposed 2025 Meeting Schedule. (All)

The Committee reviewed the proposed 2025 meeting schedule. Judge Jensen made a motion to approved the meeting schedule. Ms. Davis seconded the motion, and the motion passed unanimously.

6. Old business/new business: (All)

Mr. Gallardo reminded the Committee that recently approved Rules 5, 13A, 14, 15, 19C, 22, and 50 went into effect November 1, 2024. Rule 31 was repealed effective November 1st.

Mr. Johnson shared the gratitude expressed by the Supreme Court Justices at a recent Supreme Court Conference. The Justices are grateful for members' participation and hard work put into amending and improving the rules.

The meeting adjourned at 1:39 p.m. The next meeting will be held on December 6, 2024 via Webex.