

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

## Meeting Agenda

*Matthew Johnson, Chair*

Location: Webex Meeting  
Date: February 7, 2025  
Time: 12:00 pm – 2:00 pm

<b>Action:</b> Welcome and approval of the January 3, 2025 meeting minutes.	Tab 1	Matt Johnson
<b>Discussion &amp; Action:</b> <a href="#">In re J.M., 2024 UT App 147</a> and <a href="#">Rule 34</a> . <ul style="list-style-type: none"><li><i>The Court of Appeals suggests “adopt[ing] a rule governing the process by which no-contest responses entered pursuant to Rule 34(e) may be withdrawn.” See footnote 6 on page 11 of the Court of Appeals opinion.</i></li></ul>	Tab 2	All
<b>Discussion &amp; Action:</b> <a href="#">Rule 16</a> . Transfer of delinquency case. <ul style="list-style-type: none"><li><i><a href="#">Comment period</a> closes on February 1, 2025.</i></li><li><i>A comment was received related to detention and home detention hearings: “If the case is transferred for trial to the trial judge, Does the home judge review the detention/home detention status?”</i></li></ul>	Tab 3	All
<b>Discussion &amp; Action:</b> <a href="#">Rule 16A</a> . Transfer of a non-delinquency proceeding.	Tab 4	All

<ul style="list-style-type: none"> <li>Proposed changes to paragraph (e) were recently presented to the Supreme Court. The Court offered a restructuring of the rule that follows a more linear approach.</li> </ul>		
<p><b>Discussion &amp; Action:</b> Transfers of Child Protective Orders to district court.</p> <ul style="list-style-type: none"> <li>Pursuant to Utah Code section <a href="#">78A-6-104(5)</a>, child protective orders may be transferred to the district court. When this occurs, the Rules of Civil procedure apply, and the procedures regarding interviews or recordings with children found in the Rules of Juvenile Procedure are lost.</li> <li>The Committee has been invited to partner with the Advisory Committee on the Rules of Civil Procedure and form a workgroup to address this issue. Interested members are encouraged to volunteer.</li> </ul>		All
<p><b>Discussion:</b> Ineffective assistance of counsel claims.</p> <ul style="list-style-type: none"> <li>The Court of Appeals asks for this Committee's feedback on a proposal to adopt a rule that addresses ineffective assistance of counsel claims in juvenile court appeals. The proposed rule would be similar to <a href="#">Rule 23B</a> of the Utah Rules of Appellate Procedure.</li> </ul>		Judge Jensen
<p><b>Discussion:</b> Old business or new business.</p>		All

[URJP Committee Site](#)

Meeting Schedule:

March 7, 2025

June 6, 2025

October 3, 2025

April 4, 2025

August 1, 2025

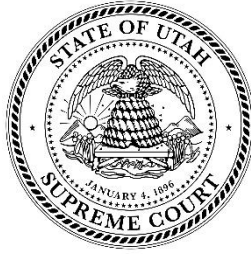
November 7, 2025

May 2, 2025

September 5, 2025

December 5, 2025

# TAB 1



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

**Draft Meeting Minutes**

*Matthew Johnson, Chair*

Location: Webex Meeting  
Date: January 3, 2025  
Time: 12:00 p.m. – 2:00 p.m.

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

15 **1. Welcome and approval of the December 6, 2024 Meeting Minutes.** (Matthew  
16 Johnson)

17  
18 Committee Chair Matthew Johnson welcomed everyone to the meeting. Chair  
19 Johnson then asked the Committee for approval of the December 6, 2024 meeting  
20 minutes. Judge Johnson moved to approve the minutes as presented. Ms. Moore  
21 seconded the motion, and it passed unanimously.

22  
23 **2. Discussion: *In re J.M.*, 2024 UT App 147 and Rule 34(e) responses.** (All)

24  
25 At a recent conference with the Supreme Court, Chair Johnson asked the Court for  
26 their guidance on whether withdrawal of Rule 34(e) responses is a substantive issue  
27 or a procedural issue. The Supreme Court advised that this is a procedural issue and  
28 asked the Committee to be proactive in drafting a rule to address withdrawals.

29  
30 Judge Johnson indicated that this issue will be presented to the Board of Juvenile  
31 Court Judges at their January 10, 2025 meeting to gather the Bench’s input. Judge  
32 Johnson then outlined the two routes that can be taken to address withdrawal of Rule  
33 34(e) responses. On the one hand, juvenile court proceedings, particularly child  
34 welfare proceedings, are civil in nature. Therefore, Rule 59 and Rule 60 of the Utah  
35 Rules of Civil Procedure justly apply. A Rule 34 draft dated November 1, 2024 that  
36 supports this route was circulated to the Committee prior to the meeting. On the other  
37 hand, the Committee can build in a process of withdrawing an answer, similar to a  
38 withdrawal of plea in a delinquency proceeding. A draft dated December 6, 2024  
39 containing this proposal was also circulated prior to the meeting. The concern with  
40 the latter, Judge Johnson explained, is that a withdrawal of plea in a delinquency  
41 proceeding is authorized in statute. Withdrawals of answers in a child welfare  
42 proceeding is not authorized by statute.

43  
44 Chair Johnson suggested finding a way to combine both approaches. Jordan Putnam  
45 voiced his support of the language proposed and included in the draft dated  
46 December 6, 2024, that was put forth by David Fureigh. Mr. Putnam liked the use of  
47 “no contest response” because it creates uniform language. That said, Mr. Putnam  
48 agrees that a hybrid approach seems best because the proceedings are civil in nature  
49 and Civil Rule 60 applies. Mr. Putnam advocated for adding language in Rule 34 that  
50 refers practitioners to Rule 60 of the Utah Civil Rules of Procedure. Parties may ask to  
51 withdraw their response for various reasons. Mr. Putnam showed that a parent may  
52 ask to withdraw their answer because they did not submit it “knowingly and  
53 voluntarily,” or a party can request to withdraw due to newly discovered evidence  
54 that no longer supports a finding.

55

56 Mr. Putnam then suggested adding a procedure that requires that any agreements  
57 made during mediations or negotiations are to be included as part of the court record,  
58 preferably in writing.

59  
60 David Fureigh acknowledged that his proposal dated December 6, 2024 is akin to a  
61 substantive rule that creates a legal right for parties, and that can be problematic. In  
62 contrast, a proposal that refers practitioners to the relief found in Civil Rule 60 is  
63 emphatically procedural. Mr. Fureigh shared that his only concern with the procedure  
64 in Civil Rule 60 is the timing; 90 days after a judgment is entered to file a motion  
65 seeking relief is a long time in child welfare cases. Mr. Fureigh would like to see this  
66 shortened to 30 days after the entry of the order.

67  
68 Mr. Putnam responded and proposed that one option is to keep the 90-day timeframe  
69 allowed by Civil Rule 60, and if a motion to set aside an answer is filed, the motion  
70 does not halt the child welfare case and its timelines.

71  
72 Judge Johnson raised concern with the creation of what could be a legal right to  
73 withdraw an answer pursuant to Rule 34(e) and whether this type of motion, which  
74 would have a shorter timeframe, precludes or limits the future filing of a Civil Rule  
75 60 motion in the same case. Judge Johnson noted that the Committee would have to  
76 find a way to reconcile this new type of motion to withdraw, or set aside, and a motion  
77 filed under Civil Rule 60, because having both motions available to parties may be  
78 confusing.

79  
80 Mr. Putnam advocated against the creation of a new right or motion contained in Rule  
81 34. Instead, he proposes language that refers to a Civil Rule 60(b) motion in Rule 34.  
82 Mr. Fureigh proposed a hybrid of Judge Johnson's proposal dated November 1, 2024  
83 and Mr. Fureigh's proposal dated December 6, 2024. Mr. Fureigh proposed keeping  
84 the language he proposed for paragraph (d) and (e), but replacing the language he  
85 proposed in paragraph (f) with Judge Johnson's proposed language that refers readers  
86 to Civil Rule 60. Mr. Fureigh would like to see, however, the timeframe in which a  
87 Civil Rule 60 motion can be filed shortened to 30 days.

88  
89 Jannette White recommended distinguishing between parties seeking relief under  
90 Civil Rule 60 for a child welfare adjudication, e.g., "mistake," "surprise," "newly  
91 discovered evidence," etc., and parties moving for the withdrawal of a Rule 34(e)  
92 response, i.e., "declining to admit or deny," because the parent did not like their  
93 attorney. Ms. White reminded the group that children's lives are affected greatly, and  
94 it may not be in the children's best interest if parents are given 90 days to possibly  
95 change their mind about their Rule 34(e) response. Ms. White supports a shortened  
96 timeframe.

97

98 Sophia Moore expressed concern with creating new or separate timeframes. Ms.  
99 Moore reminded the Committee that there are various reasons for filing a motion  
100 pursuant to Civil Rule 60. Obtaining discovery can also take time, so Ms. Moore  
101 suggested not changing the timeframes. Ms. Moore also expressed concern with the  
102 creation of a right contained in a procedural rule.

103  
104 Mr. Gallardo presented a draft of Rule 34 combining Mr. Fureigh's proposed language  
105 in (d) regarding the court's colloquy with parties and Judge Johnson's language  
106 regarding the remedies provided in Civil Rules 59 and 60. The Committee then  
107 discussed the use of the language "no contest response." Several members expressed  
108 concern with this language as it carries overtones of criminal proceedings. Judge  
109 Johnson proposed the use of "answer" instead of "response," and referred the group  
110 to Rule 19, which establishes the use of "answer." Members agreed with the use of  
111 "answer" and with the idea of allowing for any "answer" to be set aside, not just "no  
112 contest responses."

113  
114 Mr. Putnam suggested incorporating into the rule the use of a "change of plea"-type  
115 form to establish a party's answer to a child welfare petition. This would strengthen  
116 a judge's colloquy in which a parent acknowledges that their answer is "knowingly  
117 and voluntarily" made. Judge Johnson argued against the use of such a form. While  
118 agreements may be made during mediations or negotiations between parents,  
119 attorneys, and DCFS, the court is not obligated to adopt those agreements.

120  
121 Bill Russell commented on the use of "no contest response" by the Court of Appeals.  
122 In his opinion, Mr. Russell does not view an answer pursuant to Rule 34(e) as a "no  
123 contest response." Instead, it is, as the rule describes, a declination to respond upon  
124 which a court can make a finding of true. For purposes of drafting a rule, Mr. Russell  
125 believes the rule should address how to reverse the finding of true based on the  
126 declination to respond. Mr. Putnam shared that in his experience parents seem to  
127 liken a declination to respond to a no contest response. Parents themselves, even after  
128 explanations of Rule 34(e), conclude that their declination to respond is like a no  
129 contest response. Therefore, Mr. Putnam advocates for keeping the "no contest"  
130 language. This is familiar to parties.

131  
132 Moreover, on a similar issue, Mr. Fureigh prefers steering away from calling a parent's  
133 "no contest response" a "plea" or simply a "Rule 34(e)." Mr. Fureigh included the "no  
134 contest response" language in his proposal because that is the term that the Court of  
135 Appeals uses in their opinion.

136  
137 The Committee then returned to the combined draft and reviewed all changes. The  
138 Committee, for now, would like to keep the proposed language in paragraph (d) that  
139 includes a judge's colloquy. Judge Johnson, however, would like to review this  
140 language with the Board of Juvenile Court Judges. Judge Jensen agreed with tabling

141 this particular language to allow for input from the Board. Mr. Russell also agreed  
142 with seeking the Board’s input.

143  
144 Judge Johnson then proposed deleting the current, last two sentences from paragraph  
145 (d). The language there is repetitive. The same language is found in Rule 19 of the  
146 Utah Rules of Juvenile Procedure. The proposal now strikes these last two sentences.

147  
148 The Committee made further amendments to clarify the language in paragraph (f).  
149 Proposed paragraph (f) now reads, “An answer to a child welfare petition is civil in  
150 nature. Relief from an admission or no-contest answer entered pursuant to Rule 34(e)  
151 is governed by civil remedies, including Rule 59 and Rule 60 of the Utah Rules of Civil  
152 Procedure and applicable appellate procedure.”

153  
154 Rule 34 was tabled and shared with members to allow for further discussion with  
155 various interest groups. Rule 34 will be back on the February 7, 2025 agenda.

156  
157 **3. Rule 16A. Transfer of a non-delinquency proceeding. (All)**

158  
159 The Committee proposed amending paragraph (e) to update the process by which  
160 receiving courts are notified of a case transfer. Physical documents are no longer  
161 transmitted between courts. Instead, all documents are uploaded to the C.A.R.E.  
162 system and notice is given to the receiving court. The proposed language mirrors  
163 recently proposed language in Rule 16 of the Utah Rules of Juvenile Procedure.

164  
165 Mr. Gallardo inquired about the title of the rule and whether the rule does indeed  
166 capture all non-delinquency proceedings. Judge Johnson answered that Rule 16A  
167 does govern all non-delinquency proceedings, including adult criminal matters for  
168 which the juvenile court has jurisdiction over. Judge Jensen clarified that statute  
169 defines when a child protective order is transferred to the district court. Rule 16A  
170 applies only to transfers between juvenile courts.

171  
172 Chair Johnson asked for a motion to present Rule 16A, as amended, to the Supreme  
173 Court and request an initial public comment period. Mr. Russell made that motion,  
174 and Ms. White seconded the motion. The motion passed unanimously.

175  
176 **4. Rule 16. Transfer of delinquency case. (All)**

177  
178 Rule 16 is currently out for public comment. Judge Jensen and Judge Johnson received  
179 a comment from another judge regarding detention and home detention review  
180 hearings. The judge asked, “If the case is transferred for trial to the trial judge, Does  
181 the home judge review the detention/home detention status?”



183 Judge Johnson explained that the current practice is for the home judge and the county  
184 of occurrence judge to communicate and agree on which judge will hear ongoing  
185 detention or home detention status. Judge Johnson added that the majority of ongoing  
186 detention review hearings are held before the home judge after the initial detention  
187 hearing is held by the judge in the county of occurrence. Mr. Russell shared that the  
188 process described by Judge Johnson is also his experience. He added that any party  
189 can request a detention or home detention review hearing, and if release is requested  
190 or revocation of a prior release order, this request can be made to the home judge. The  
191 home judge can then indicate whether that court or the judge in the county of  
192 occurrence should make that decision. Mr. Fureigh stated that procedural direction  
193 would also benefit attorneys due to the change in attorneys, who would represent a  
194 minor or represent the state.

195  
196 Judge Jensen shared her experience with cases where a youth's home detention status  
197 is reviewed in one district but the actual supervision of home detention is done by  
198 another district. In this scenario, it is difficult to receive solid, helpful information on  
199 the youth's compliance. Judge Jensen suggested reviewing a youth's home detention  
200 status in the district where the youth is physically being monitored.

201  
202 Mr. Fureigh presented two possible approaches through the adoption of a rule: (1) a  
203 standard can be established directing which court, the home judge or county of  
204 occurrence, reviews a youth's detention or home detention status, or (2) the rule can  
205 direct both judges to communicate regarding which court will hear the matter. Judge  
206 Johnson offered to seek input from the Board of Juvenile Court Judges when he meets  
207 with the Board on January 10<sup>th</sup>.

208  
209 Mr. Russell proposed that an amendment addressing this issue may properly fit  
210 under Rule 9(n). Judge Johnson agreed and suggested language allowing the court  
211 who made the initial detention hearing orders to transfer the matter to a more  
212 appropriate venue.

213  
214 The Committee tabled this issue. Judge Johnson will discuss it with the Board, and  
215 members will also seek feedback from other practitioners.

216  
217 **5. Old business/new business: (All)**

218  
219 Judge Johnson offered thoughts on adding members from Probation and Juvenile  
220 Justice and Youth Services (JJYS) to this body. Many of the issues discussed here  
221 affect Probation and JJYS and their detention facilities. It would be helpful, as the  
222 issues are discussed, to gain their knowledge and feedback regarding their  
223 operations. Chair Johnson will look at the Supreme Court Rules of Professional  
224 Practice to see if the rules allow for the addition of Probation and JJYS members.

226 The meeting adjourned at 1:53 p.m. The next meeting will be held on February 7, 2025  
227 via Webex.

# TAB 2

1 **Rule 34. Pre-trial hearing in non-delinquency cases.**

2 (a) Petitions in non-delinquency cases ~~shall~~will be scheduled for an initial pre-trial  
3 hearing.

4 (b) The pre-trial hearing ~~shall~~will be scheduled on the nearest court calendar date  
5 available in all cases where the subject minor is in temporary shelter care custody in  
6 accordance with Utah Code section 80-3-401.

7 (c) In the pre-trial hearing, the court ~~shall~~will advise the parent, guardian, or custodian  
8 of the minor's rights and of the authority of the court in such cases. In the hearing or in  
9 any continuance of the hearing, the parent, guardian, or custodian ~~shall~~must answer the  
10 petition in open court.

11 (d) Before answering, the court will inform the respondent of their rights, including but  
12 not limited to their right to a trial on the petition and their right to counsel at the trial.  
13 The Court will inform the respondent of the potential dispositional orders that may be  
14 entered regarding the respondent and the child(ren) as a result of their answer, and that  
15 the respondent understands the consequences of their answer or response they are  
16 entering, including their rights on appeal. The court will also determine that the  
17 respondent's answer is knowing and voluntary. ~~the respondent may move to dismiss~~  
18 ~~the petition as insufficient to state a claim upon which relief can be granted. The court~~  
19 ~~shall hear all parties and rule on said motion before requiring a party to answer.~~

20 (e) A respondent may answer by admitting or denying the specific allegations of the  
21 petition, or by proceeding with a no-contest answer by declining to admit or deny the  
22 allegations. Allegations not specifically denied by a respondent ~~shall~~will be deemed true.

23 (f) An answer to a child welfare petition is civil in nature. Relief from an admission or no-  
24 contest answer entered pursuant to Rule 34(e) is governed by civil remedies, including  
25 Rule 59 and Rule 60 of the Utah Rules of Civil Procedure and applicable appellate  
26 procedure.

27 (g) Except in cases where the petitioner is seeking a termination of parental rights, the  
28 court may enter the default of any respondent who fails to file an answer, or who fails to  
29 appear either in person or by counsel after having been served with a summons or notice  
30 pursuant to Rule 18. Allegations relating to any party in default ~~shall~~will be deemed  
31 admitted unless the court, on its own motion, or the motion of any party not in default,  
32 ~~shall~~will require evidence in support of the petition. Within the time limits set forth in  
33 Rule 60 of the Utah Rules of Civil Procedure~~Utah R. Civ. P. 60(b)~~, upon the written motion  
34 of any party in default and a showing of good cause, the court may set aside an entry of  
35 default.

1 **Rule 34. Pre-trial hearing in non-delinquency cases.**

2 (a) Petitions in non-delinquency cases will be scheduled for an initial pre-trial hearing.

3 (b) The pre-trial hearing will be scheduled on the nearest court calendar date available in  
4 all cases where the subject minor is in temporary shelter care custody in accordance with  
5 Utah Code section 80-3-401.

6 (c) In the pre-trial hearing, the court will advise the parent, guardian, or custodian of the  
7 minor's rights and of the authority of the court in such cases. In the hearing or in any  
8 continuance of the hearing, the parent, guardian, or custodian must answer the petition  
9 in open court.

10 (d) Before answering, the court will inform the respondent of their rights, including but  
11 not limited to their right to a trial on the petition and their right to counsel at the trial.  
12 The Court will inform the respondent of the potential dispositional orders that may be  
13 entered regarding the respondent and the child(ren) as a result of their answer, and that  
14 the respondent understands the consequences of their answer or response they are  
15 entering, including their rights on appeal. The court will also determine that the  
16 respondent's answer is knowing and voluntary.

17 (e) A respondent may answer by admitting or denying the specific allegations of the  
18 petition, or by proceeding with a no-contest answer by declining to admit or deny the  
19 allegations. Allegations not specifically denied by a respondent will be deemed true.

20 (f) An answer to a child welfare petition is civil in nature. Relief from an admission or no-  
21 contest answer entered pursuant to Rule 34(e) is governed by civil remedies, including  
22 Rule 59 and Rule 60 of the Utah Rules of Civil Procedure and applicable appellate  
23 procedure.

24 (g) Except in cases where the petitioner is seeking a termination of parental rights, the  
25 court may enter the default of any respondent who fails to file an answer, or who fails to  
26 appear either in person or by counsel after having been served with a summons or notice  
27 pursuant to Rule 18. Allegations relating to any party in default will be deemed admitted

28 unless the court, on its own motion, or the motion of any party not in default, will require  
29 evidence in support of the petition. Within the time limits set forth in Rule 60 of the Utah  
30 Rules of Civil Procedure, upon the written motion of any party in default and a showing  
31 of good cause, the court may set aside an entry of default.

# TAB 3



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 initially  
5 qualifies for a nonjudicial adjustment pursuant to statute, the ~~intake~~ probation  
6 officer of the county of occurrence ~~must~~shall, unless otherwise directed by court  
7 ~~order,~~ transfer the referral to the minor's county of residence for a preliminary  
8 inquiry to be conducted in accordance with Rule 15.

9 (2) If the minor or the minor's parent, guardian, or custodian cannot be located or  
10 fails to appear after notice of the preliminary inquiry or the minor declines an offer  
11 for a nonjudicial adjustment ~~any of the following circumstances are found to exist~~  
12 ~~at the time of preliminary inquiry,~~ the referral ~~must~~shall be transferred back to the  
13 county of occurrence for a determination as to whether to file ~~ing of~~ a petition, ~~and~~  
14 ~~further proceedings:~~

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

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

19 ~~(C) a minor or the minor's custodian cannot be located or fails to appear after~~  
20 ~~notice for the preliminary inquiry or the minor declines an offer for a nonjudicial~~  
21 ~~adjustment;~~

22 ~~(D) there are circumstances in the case that require adjudication in the county of~~  
23 ~~occurrence in the interest of justice; or~~

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

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

28 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be  
29 held in the minor's county of residence. If the petition is resolved without a trial,  
30 venue will remain in the minor's county of residence.

31 (2) Prosecutors and defense counsel in both the county of occurrence and the  
32 county of residence must cooperate with each other both to provide discovery to  
33 defense counsel and to assist in the resolution or litigation of each case.

34 (3) The prosecutor in the minor's county of residence has the authority to resolve  
35 any out-of-county charge after consultation with the prosecutor in the county or  
36 counties where the alleged offenses occurred.

37 (4) Prosecutors attempting to resolve petitions must observe the rights of any  
38 alleged victim in the county or counties of occurrence.

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

44 (1) Once the court in the county of residence determines that the matter cannot be  
45 resolved, venue will be transferred to the county of occurrence for trial  
46 proceedings and scheduling.

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

49 (3) Motions for inquiry into competency may be raised and ruled upon in either  
50 court. The court in the county of residence and the court in the county of  
51 occurrence will communicate and consult regarding the motion. The objective of

52 the communication is to consider the appropriate venue for a competency ruling  
53 and attainment proceedings.

54 (4) If the petition is adjudicated, the case will be transferred back to the court in  
55 the minor's county of residence for disposition and continuing jurisdiction.

56 (d) Notice to and proceedings in the receiving court. With each transfer, ~~the~~  
57 transferring ~~or certifying~~ court ~~shall~~will provide notice to the receiving court of the  
58 petitions or adjudications subject to transfer.~~notify the receiving court and transmit all~~  
59 ~~documents and legal and social records, or certified copies thereof, to the receiving court.~~  
60 The receiving court ~~shall~~will proceed with the case from the point where the preceding  
61 court transferred the case as though~~if~~ the petition had been ~~originally~~ filed or the  
62 adjudication had been ~~originally~~ made in the ~~at~~ receiving court.

63 (e) Dismissal of petition. The dismissal of a petition in one district where the dismissal  
64 is without prejudice and where there has been no adjudication upon the merits ~~shall~~does  
65 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 other than the county in which the alleged  
4 delinquency occurred and the minor initially qualifies for a nonjudicial adjustment  
5 pursuant to statute, the probation officer of the county of occurrence must transfer  
6 the referral to the minor's county of residence for a preliminary inquiry to be  
7 conducted in accordance with Rule 15.

8 (2) If the minor or the minor's parent, guardian, or custodian cannot be located or  
9 fails to appear after notice of the preliminary inquiry or the minor declines an offer  
10 for a nonjudicial adjustment, the referral must be transferred back to the county of  
11 occurrence for a determination as to whether to file a petition.

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

13 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be  
14 held in the minor's county of residence. If the petition is resolved without a trial,  
15 venue will remain in the minor's county of residence.

16 (2) Prosecutors and defense counsel in both the county of occurrence and the  
17 county of residence must cooperate with each other both to provide discovery to  
18 defense counsel and to assist in the resolution or litigation of each case.

19 (3) The prosecutor in the minor's county of residence has the authority to resolve  
20 any out-of-county charge after consultation with the prosecutor in the county or  
21 counties where the alleged offenses occurred.

22 (4) Prosecutors attempting to resolve petitions must observe the rights of any  
23 alleged victim in the county or counties of occurrence.

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

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

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

30 (3) Motions for inquiry into competency may be raised and ruled upon in either  
31 court. The court in the county of residence and the court in the county of  
32 occurrence will communicate and consult regarding the motion. The objective of  
33 the communication is to consider the appropriate venue for a competency ruling  
34 and attainment proceedings.

35 (4) If the petition is adjudicated, the case will be transferred back to the court in  
36 the minor's county of residence for disposition and continuing jurisdiction.

37 (d) **Notice to and proceedings in the receiving court.** With each transfer, the transferring  
38 court will provide notice to the receiving court of the petitions or adjudications subject to  
39 transfer. The receiving court will proceed with the case from the point where the  
40 preceding court transferred the case as though the petition had been filed or the  
41 adjudication had been made in the receiving court.

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

# TAB 4

1 **Rule 16A. Transfer of a non-delinquency proceeding.**

2 (a) After the adjudication of a petition in a non-delinquency proceeding, the court may  
3 transfer the case to the district where the minor or parent resides so long as the court  
4 finds it is in the best interest of the minor.

5 (b) A case may not be transferred prior to adjudication unless the court finds good cause  
6 to transfer the matter to another district.

7 (c) The court may not transfer the case to another district after the initial disposition  
8 hearing unless the transferring court first communicates and consults with the receiving  
9 court.

10 (d) With each transfer, the receiving transferring court shall will provide notice to the  
11 receiving court of any petition or adjudication subject to transfer. schedule a hearing  
12 ~~within 30 days of receiving notice of the transfer.~~

13 (e) ~~The transferring or certifying court shall notify the receiving court and transmit all~~  
14 ~~documents and legal and social records, or certified copies thereof, to the receiving court.~~  
15 The receiving court shall will schedule a hearing within 30 days of receiving notice of the  
16 transfer and will proceed with the case as if though the petition had been ~~originally~~ filed  
17 or the adjudication had been ~~originally~~ made in the receivingat court.

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

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