



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

Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: April 4, 2025

Time: 12:00 p.m. – 2:00 p.m.

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

1. Welcome and approval of the March 7, 2025 Meeting Minutes. (William Russell)

Committee Vice-chair William Russell welcomed everyone to the meeting and introduced guests Judge F. Richards Smith and Assistant Attorney General Tyler Ulrich. Mr. Ulrich has accepted the role of recording secretary for the Committee. Vice-chair Russell then asked the Committee for approval of the March 7, 2025 meeting minutes. Sophia Moore moved to approve the minutes as presented. Janette White seconded the motion, and it passed unanimously.

2. Discussion & Action: Rule 44. Findings and conclusions. (Judge Smith)

Judge Smith presented amendments to Rule 44 that he found necessary after recently presiding over a juvenile delinquency trial. Judge Smith proposed creating a distinction between dismissing a petition that has not been proven in a non-delinquency case and entering a finding of *Not True* after a trial when a delinquency allegation has not been proven. Judge Smith added that C.A.R.E. is now programmed to enter a finding of *Not True*. Committee members agreed that the current practice of dismissing delinquency allegations after having been found *Not True* does not accurately reflect the outcome of the trial.

A discussion around C.A.R.E. and its operational requirements also took place. Currently, the C.A.R.E. system supports a court's entering of the finding *dismissed without prejudice* and *dismissed with prejudice*; however, the C.A.R.E. system does not accurately reflect that finding in some of its user interfaces. Dawn Hautamaki reports that the C.A.R.E. programming team is working on a solution, and perhaps, this may solve the issue raised by Judge Smith.

Judge Smith believes that in order to accurately reflect the court's findings after an allegation has not been proven at trial, the record and C.A.R.E. should reflect a finding of *Not True*. Ms. Hautamaki clarified that the finding is available in C.A.R.E., but the disposition of *Not True* is not available. Judge Smith argued that both the finding and disposition of the allegation should be *Not True*.

The Committee approved the following procedures to be added to paragraph (c): "If a petition has not been proven in a non-delinquency case, the court will dismiss the petition."; and "If an allegation has not been proven during a juvenile delinquency trial, the court will enter a finding and disposition that an allegation is *Not True*."

Elizabeth Ferrin made a motion to present Rule 44 as amended to the Supreme Court and request that it be sent out for an initial public comment period. Adrianna Davis seconded the motion. The motion passed unanimously.

3. Discussion & Action: Rule 34. Pretrial hearing in non-delinquency cases. (All)

Mr. Gallardo presented both drafts that were prepared and circulated to members, a February 7, 2025 draft and a March 7, 2025 draft, which contains additional proposed changes as suggested by past guest and Indigent Defense Commission member, Jason Richards, and an additional change in paragraph (g) proposed by Vice-chair Russell. Mr. Gallardo also shared comments made by committee members who were not able to be present today. Judge Jensen sent in a comment indicating she prefers the proposed paragraph (d) in the February 7, 2025 draft, and prefers the proposed language in paragraph (g) contained in the March 7, 2025 draft. Jim Smith also sent in a comment regarding proposed paragraph (d). Mr. Smith prefers a less detailed colloquy. Vice-chair Russell and Jordan Putnam agree with this comment. The idea behind the language in (d) is not to provide a script to judges.

Ms. Moore suggested that this Committee form a subcommittee to address all proposed changes and comments to those changes. Vice-chair Russell supports the formation of a subcommittee. Ms. White, Ms. Moore, Mr. Putnam, Mr. Fureigh, and Mr. Luchs volunteered to participate in a Rule 34 subcommittee. Vice-chair Russell asked Mr. Gallardo to invite Judge Jensen, Judge Johnson, and Mr. Smith to participate on the subcommittee.

The Committee did decide on the language in paragraph (g). Vice-chair Russell's proposal was preferred and added to both drafts. The proposal is to the last sentence in (g) and it reads, "Upon a finding of good cause, the court may set aside an entry of default if the defaulting party files a written motion within the time limits set forth in Rule 60 of the Utah Rules of Civil Procedure." Ms. White made a motion to proceed with this language. Ms. Moore seconded the motion. The motion passed unanimously.

4. Discussion & Action: Rule 48. Post judgment motions. (All)

Mr. Gallardo presented the proposed change to Rule 48, which aims to add Rule 60(b) of the Utah Rules of Civil Procedure to paragraph (c) of Rule 48. Judge Jensen also sent in a comment. Judge Jensen points out that Civil Rule 60(b) motions include mistakes and newly discovered evidence, so shortening the timeframe for the filing of a Civil Rule 60(b) motion to 14 days after judgment does not seem reasonable. Vice-chair Russell agrees with Judge Jensen. Civil Rule 60(b) motions also apply in delinquency cases, and 14 days in those cases is also not enough time.

The Committee briefly discussed adding a new paragraph (d) to Rule 48 to address an appropriate timeframe for Civil Rule 60(b) motions.

Ms. Moore suggested seeking input from the Committee on the Rules of Appellate Procedure and the Committee on the Rules of Civil Procedure regarding the timeframes in Civil Rule 60(b).

Mr. Fureigh suggested tabling Rule 48 until the Committee has finalized a Rule 34 draft, and Vice-chair Russell and members agreed. Rule 48 will be tabled without a return date until a Rule 34 draft is finalized.

5. Discussion & Action: Rule 37A. Visual recording of statement or testimony of child in abuse, neglect, dependency, or substantiation proceedings—Conditions of admissibility. (All)

Mr. Fureigh shared that Judge Jensen and he recently collaborated alongside members of the Committee on the Rules of Civil Procedure in an effort to draft a rule similar to 37A, which would then be proposed for adoption into their body of rules. Mr. Fureigh learned that there are juvenile court judges who apply Rule 37A to child protective order proceedings and there are judges who do not. Furthermore, Mr. Fureigh pointed out that Rule 37A exists under Section IX Proceedings Relating to Neglect, Abuse and Dependency and Related Non-Delinquency Matters of the Rules of Juvenile Procedure. Moreover, Mr. Fureigh explained that Rule 37A was last amended in 2023, when the Committee added substantiation proceedings to the rule. It is believed that because the rule expressly identifies certain proceedings and does not identify child protective order proceedings, practitioners may conclude that the Committee purposefully omitted child protective order proceedings.

The Committee added child protective order proceedings to the title of the rule and to paragraphs (a), (b), and (c). The Committee also added “other related non-delinquency proceedings” to the title in order to capture, for example, a case before the juvenile court that initially began as an abuse proceeding but later turned into a custody case, i.e., a “spillover” custody case. The Committee also identified other non-delinquency proceedings—status offenses, ungovernability, runaways, judicial bypass, petition to marry—that are not related to abuse, neglect, and dependency. So, the Committee agreed that adding “other related non-delinquency proceedings” is appropriate.

Mr. Luchs made a motion to present Rule 37A as amended to the Supreme Court and request that it be sent out for an initial public comment period. Ms. White seconded the motion. The motion passed unanimously.

6. Discussion: Defense counsel qualifications when youth face risk of adult prosecution. (All)

The Indigent Defense Commission submitted a request asking that the Committee consider adopting a rule similar to Rule 8(b) of the Utah Rules of Criminal Procedure. In cases when a youth faces the risk of adult prosecution, the IDC would like to see a rule that addresses the qualifications of appointed defense counsel.

After canvassing several practitioners, Vice-chair Russell drafted a rule, and it has been circulated amongst committee members. Committee members agree that youth deserve the best defense.

Ms. Davis supports a rule to address this issue; however, she foresees other issues around funding for training and hiring of competent defense attorneys, especially in rural parts of the state.

The Committee requested data on the number of information filings per district. Mr. Gallardo will work with the AOC to gather this data.

The issue will be added to the May 2, 2025 agenda for further discussion.

7. Old business/new business: (All)

The meeting adjourned at 2:04 p.m. The next meeting will be held on May 2, 2025 via Webex.