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

Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: December 5, 2025

Time: 12:00 p.m. – 2:00 p.m.

<table>
<tr>
<td rowspan="2"><u>Attendees:</u>
Matthew Johnson, Chair
William Russell, Vice-Chair
Adrianna Davis
Alan Sevison, Emeritus Member
Alexa Arndt
Carolyn Perkins
David Fureigh, Emeritus Member
Dawn Hautamaki
Elizabeth Ferrin
Janette White
Judge David Johnson
Judge Debra Jensen
Michelle Jeffs
Stephen Star
Thomas Luchs</td>
<td><u>Excused Members</u>:
James Smith
Tyler Ulrich, Recording Secretary</td>
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<tr>
<td><u>Guests:</u></td>
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<tr>
<td colspan="2"><u>Staff</u>:
Erika Larsen, Juvenile Court Law Clerk</td>
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Raymundo Gallardo, Administrative Office of the Courts

1. **Welcome and approval of the November 7, 2025, Meeting Minutes**. (Matthew Johnson)

   Committee Chair Matthew Johnson welcomed everyone to the meeting. Chair Johnson then presented the prepared minutes from the November 7, 2025, Committee meeting and asked if there were any comments or corrections that needed to be made. There were no comments from the Committee, and no proposed corrections were presented. Dawn Hautamaki made a motion to approve the minutes. Michelle Jeffs seconded the motion, and it passed unanimously.

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

   Chair Johnson and Vice-chair Bill Russell met with the Supreme Court on November 19, 2025 to present the proposed changes to Rule 16 that were approved by this Committee on November 7th. The Court had concern with a rule that allows the juvenile court to direct prosecutors on what to do outside of proceedings. The Court also had concern with a rule that gives prosecutors authority to do something.

   In regards to the procedures in the rule that direct prosecutors in the county of residence to facilitate discovery disclosure between the prosecutor in the county of occurrence and defense counsel in the county of residence, Chair Johnson reported that he's received feedback from prosecutors in the district he practices. As prosecutors in the county of residence, those attorneys indicate they prefer to stay out of that process. Additionally, those attorneys prefer that the charged offenses be heard where they occurred, especially given the advantage of remote hearing capabilities.

   Vice-chair Russell added that the Court supports the intent behind the recently approved rule, effective September 1, 2025, and the more recently proposed changes from the November 7, 2025 meeting that include more specific time periods related to discovery as well as the addition of the cross reference to Rule 16 of the Utah Rules of Criminal Procedure. The Court, however, asks that the Committee reframe the current language in Rule 16 to be more "court-facing" language.

   Stephen Starr acknowledged the intent behind the rule, but reported frustration with the practicality of it. Mr. Starr argued that the former process of transferring charges after arraignment to the county of occurrence, where the evidence resides, was more efficient. Mr. Starr indicates many attorneys feel this way.

   Alexa Arndt shared similar frustrations. In Ms. Arndt's experience, the current process is burdensome and adds unnecessary court hearings and more work.

Carolyn Perkins agreed with Mr. Starr's and Ms. Arndt's expressed concerns. Additionally, Ms. Perkins has found that the process creates more work as she attempts to work with out-of-county prosecutors. Ms. Perkins also prefers the former process of resolving out-of-county offenses in the county of occurrence.

After hearing from members, Judge Johnson recommended that the Committee take a broader approach than simply reframing some of the language as suggested by the Utah Supreme Court. Judge Johnson suggests that the Committee may need to overhaul the entire rule.

The Committee then reviewed the previous version of Rule 16 adopted September 1, 2021 that was replaced by the 2025 amendment. Many stakeholders expressed they would prefer returning to that former process instead of continuing with the newly adopted version of Rule 16.

On the other hand, Janette White shared the minor's perspective. In particular, Ms. White described situations for youth that are in court-ordered placements outside their county of residence for whom there is a lack of effort to communicate with the youth, guardians, and interested parties, and a lack of effort to resolve charges in the county of residence. This can be chaotic for the kids. David Fureigh reminded the Committee that the initial changes that provide for resolution of charges in the county of residence were triggered by a desire to better support minors, improve communication regarding discovery, and create in rule a consistent practice in the handling of out-of-county charges.

Judge Jensen also reminded the Committee that the Board of Juvenile Court Judges supported the version of the rule adopted September 1, 2025, because the Board believed it would help improve the former process. Judge Jensen has also received feedback from colleagues, and one particular suggestion was to include an initial offer right on the petition. Mr. Starr thinks this is a good idea, but it does not solve the problem. In order to ensure that the offer is a good offer, defense counsel would need to review discovery before reviewing the offer with their client.

Judge Jensen agreed that the currently experienced frustrations are also evident in her courtroom. There's a lack of communication between prosecutors in the county of residence and prosecutors in the county of occurrence, mainly due to prosecutors not getting appointed in the county of occurrence. The rule requires that prosecutors cooperate, but there is no cooperation.

Mr. Starr and Ms. Perkins contend that an offense should be adjudicated where the offense is committed. Ms. Jeffs also agrees that it is best to resolve petitions in the county of occurrence, where the people who know what happened reside. Ms. Jeffs adds that including an offer on the petition undermines the role of the defense

attorney, who may have a perspective and arguments that are helpful for the prosecutor to hear. Similarly, juvenile delinquency proceedings are more collaborative in nature, and an offer on the petition would undermine this approach.

Chair Johnson proposed creating a workgroup to remedy the concerns expressed regarding the current procedure in Rule 16. Vice-chair Russell agreed with the creation of a workgroup, and summarized two possible solutions: (1) the county of occurrence holds the arraignment and all subsequent hearings, but this may be unrealistic given the youth will be supervised in the county of residence; and (2) the county of residence arraigns the minor and then transfers, which was the former but inconsistent process.

Mr. Starr made a motion to table Rule 16 and to create a workgroup to further amend Rule 16. Ms. Arndt seconded the motion. The motion passed unanimously. Chair Johnson volunteered to participate. The Committee asked Erika Larsen to participate in the workgroup and research what other states are doing in this area of delinquency proceedings.

3. **Discussion and Action: New Rule 23**. **Appointment of counsel**. (Vice-chair Bill Russell)

Vice-chair Russell presented and reviewed the proposed new rule regarding the appointment of counsel in bindover cases. This rule has been drafted with the help of a workgroup, and this is the seventh iteration. Vice-chair Russell pointed to several notable changes or additions, including: numbering the rule as Rule 23, which is currently available; changing the term "transfer" to "bindover" as it is used throughout statute; the experience standards now include both adult court and juvenile court experience; the experience standards can also now include experience as both prosecution and defense attorneys; the removal of an exemption to the rule that favored defense organizations; education is required and remains at the very top of the standards list; and prior bindover experience or the ability to consult with an experienced bindover attorney is also a requirement. The Utah Indigent Defense Commission has agreed to maintain a roster of qualified attorneys.

Vice-chair Russell then shared that privately-retained counsel is also addressed by the rule in paragraph (c), albeit with some reluctance on Vice-chair Russell's part. There were members of the workgroup that suggested including an inquiry into the qualifications of private counsel. Vice-chair Russell is concerned about this because the 6th Amendment grants the right to counsel of choice. That said, Vice-chair Russell believes the trial court has the authority and the duty to ensure that counsel is competent. Additionally, paragraph (c) not only allows a court to inquire into private counsel's qualifications, but it also requires that the court make findings on the record regarding private counsel's qualifications.

Chair Johnson believes that the inquiry into private counsel's qualifications as allowed by paragraphs (c) adds a somber reminder to the youth and the family that the case is very serious; hence, competent counsel is necessary.

As a way to address privately-retained counsel, Ms. Larsen suggested drafting language into the rule that allows a court to enter findings that a youth waived their right to properly qualified counsel as outlined in the new rule instead of questioning a youth's and their family's decision to hire and proceed with an unqualified attorney. Mr. Russell believes this type of solution continues to imply that the youth and family made a poor choice in counsel.

Chair Johnson recommended presenting to the Utah Supreme Court two versions of the rule: one version that includes paragraph (c) regarding privately-retained counsel, and another without it.

Judge Jensen is aware that the court cannot tell a youth that their attorney is not qualified. Instead, the court may inquire into the attorney's understanding of all juvenile court procedures regarding bindover cases.

The Committee then had a brief discussion on appeals related to unqualified counsel. Judge Johnson is not aware of a case where there have been claims and decisions that counsel was unqualified. There may be claims of *ineffective assistance of counsel* and those are common throughout the legal system. Vice-chair Russell is also not aware of an appellate case where a finding of *ineffective assistance* has been made by any trial or appellate court.

Regarding the education requirements listed in subparagraph (a)(1), Judge Johnson has received feedback from colleagues indicating that the education requirements were quite minimal. Some think the education requirements could be more robust. Vice-chair Russell agrees that four hours of education is light, but the workgroup arrived at this amount through compromise.

Vice-chair Russell made a motion to present a version of new Rule 23 with paragraph (c) and a second version without it to the Utah Supreme Court and request a public comment period. Judge Johnson seconded the motion. The motion passed unanimously.

4. **Discussion and Action: Rule 18. Summons; service of process; notice.** (Erika Larsen, Dawn Hautamaki)

Ms. Larsen explained to the Committee that the proposed changes to Rule 18 intend to strike a balance between those things that require formal service of process and

those that are less formal and can be served via email. Ms. Larsen adds that Rule 4 and Rule 5 of the Utah Rules of Civil Procedure were analyzed in order to sort out that distinction, i.e., case initiating documents, or petitions, requiring formal service of process versus case-ongoing documents that may be served via email.

Ms. Hautamaki added that Rule 5 of the Utah Rules of Civil Procedure was amended in November 2024 to include email as a method of service. This change may have unintentionally failed to consider the juvenile court, which is now only required to obtain written consent from a party for email service of notice of further proceedings as required by Rule 18. The hope is to remove the requirement for written consent in order to align Rule 18 with Rule 5 of the civil rules. Ms. Larsen further expounded that even Rule 5 of the civil rules does not require service via email, but it allows it if an email address is provided.

Ms. White shared concern with the assumption that clients and attorneys will maintain communication. In her experience, both parents and attorneys fail to properly and timely communicate with each other, and as a result, parents don't show-up to hearings. Ms. White suggested additional requirements in the rule that ensure that parents understand that if an email address is provided for future service, the parent understands the court will send documents to their email and that the parent is expected to check their email. Ms. Larsen will work on adding clarifying this expectation in the rule, because Rule 5 of the civil rules allows service via email when the person being served has provided an email address.

Ms. Perkins agreed that the assumption that clients are in constant communication with their attorneys may not be true. Furthermore, this may not be due to bad communication, but due to a parent's current success with a reunification plan or because the attorney is not the person helping that parent at a particular point in the case. Ms. Perkins is also concerned that if parents do not receive notice, the consequences of missing a hearing can be serious.

Ms. Larsen suggested adding reference to all methods of service that are included in Rule 5 of the Utah Rules of Civil Procedure and an instruction in the rule that directs a court to identify a party's preferred method of service. Ms. Perkins and Ms. White support the idea of having the court ask and identify a parent's preferred method of service.

Judge Johnson reiterated a concern that has been shared in the past related to due process. If a hearing has been changed and the parent is not checking their email or communicating with their attorney and they miss the hearing, warrants may be issued. If the written consent to receive service by email is removed from Rule 18, Judge Johnson believes this raises due process concerns.

Ms. Larsen and Ms. White suggested adding the following language to paragraph (d), line 94, "At the initial hearing when a party appears, the court will inquire regarding the party's preferred method of notice."

Mr. Fureigh clarified that Rule 18 creates a legal process by which a party can be legally notified of a hearing, so that if a party is notified of the hearing in accordance with the rule and the party fails to appear, the other party can request the missing party be held in contempt. Mr. Fureigh also suggested more permissive language, e.g., "service may be effectuated by…", because there is concern that if a parent chooses the method of service, the court or the AG's Office may be limited to only the method of service chosen by the parent. Moreover, Mr. Fureigh questions the need for the inquiry into a party's preferred method of service because judges are already asking parties this question during proceedings.

Mr. Starr made a motion to table Rule 18. Vice-chair Russell seconded the motion, and the motion passed unanimously.

5. **Discussion and Action: Rule 20**. **Discovery**. (Judge Johnson)

Rule 20 is tabled until the next meeting.

6. **Discussion and Action: Section VI Proceedings under Utah Code section 80-6-503; Rule 21; and Rule 23**. (All)

These matters are tabled until the next meeting.

7. **Discussion and Action: 2026 Meeting Schedule**. (All)

The Committee approved the 2026 meeting schedule with two minor adjustments. The January meeting will be held on the second Friday of the month, on January 9th. Mr. Starr made the motion to meet on January 9, 2026. Ms. Jeffs seconded the motion. The motion passed unanimously.

The Committee will hold a hybrid meeting in the fall. Vice-chair Russell made a motion to hold a hybrid meeting on October 2, 2026. Mr. Starr seconded the motion. The motion passed unanimously.

The meeting adjourned at 2:03 p.m. The next meeting will be held on January 9, 2026, via Webex.