



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

### Meeting Minutes

*Matthew Johnson, Chair*

Location: Webex

Date: March 6, 2026

Time: 12:00 p.m. – 2:00 p.m.

<b><u>Attendees:</u></b> William Russell, Vice Chair Adrianna Davis Alan Sevison, Emeritus Member Alexa Arndt Carolyn Perkins David Fureigh, Emeritus Member Dawn Hautamaki James Smith Janette White Judge David Johnson Judge Debra Jensen Michelle Jeffs Stephen Starr Thomas Luchs	<b><u>Excused Members:</u></b> Matthew Johnson, Chair Elizabeth Ferrin
	<b><u>Guests:</u></b> Zerina Ocanovic
<b><u>Staff:</u></b> Erika Larsen Tyler Ulrich, Recording Secretary	

**1. Welcome and approval of the February 6, 2026, Meeting Minutes.** (William Russell)

Committee Vice-Chair William Russell welcomed everyone to the meeting and informed the Committee that Chair Matthew Johnson would be unable to attend today. Vice-Chair Russell then presented the proposed minutes from the February 6, 2026, 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. Alexa Arndt made a motion to approve the proposed minutes. Adrianna Davis seconded the motion, and it passed unanimously.

**2. Discussion & Action: Rule 20. Discovery.** (All)

Vice-Chair Russell reported a proposed rule regarding expert witnesses has been drafted to potentially be included in Rule 20. Erika Larsen has done extensive research regarding the history of Utah Code section 77-17-13 and shared that the statute has not really changed since its adoption, including that the language of the statute has always referred only to felonies. Ms. Larsen reported that there was a proposal to remove “felony” from the statute due to a reported instance where one party appeared with an expert witness on the day of trial in a misdemeanor case, resulting in a continuance of the trial after a jury had been called in. That proposal passed committee and the State House, but it does not appear any action was ever taken by the Senate, and the statute has remained unchanged.

Ms. Larsen further reported that other states are split on this issue, where some jurisdictions have the standards set by court orders while others are dependent on the severity of the offense. Given the current version of Utah Code section 77-17-13, there does not appear to be any notice requirement for experts in misdemeanor cases outside of court orders on a case-by-case basis.

Vice-Chair Russell invited discussion from the Committee members. David Fureigh asked that if this provision is included only in rule, if it a procedural matter rather than a substantive matter. Judge David Johnson noted that there is a requirement in the child welfare discovery rule, and he feels comfortable moving forward with adding such a requirement for delinquency matters as well.

Stephen Starr agreed and said that if there is an expert rule, it should apply to all cases to prevent any surprise expert witness called by either the prosecution or the defense. Vice-Chair Russell agreed as this would prevent any sort of disruption or delay in proceedings and noted that where discovery is already required to be exchanged, the current proposal would add only a couple of weeks extra for expert disclosures.

The Committee reviewed the current version of the proposal that was pulled directly from Utah Code section 77-17-13, and Ms. Larsen suggested removing the word “felony” in lieu of including both “felony” and “misdemeanor.” Mr. Fureigh said that if the criminal statute refers only to felonies, the proposed rule should include both levels of offense to make clear the intent to include both. Michelle Jeffs suggested using the phrase “in any delinquency case” and Vice-Chair Russell and Mr. Fureigh both concurred with her suggestion. Alan Severson suggested using the phrase “delinquency matter” and to take out “case at trial” and “evidentiary hearing.” The Committee also discussed whether the notice requirement should be 30 days or 10 days, and Judge Johnson supported a 30-day notice requirement as it would give an opposing party more time to prepare. Mr. Fureigh noted that the child welfare rule has a specific provision allowing a court to modify the notice requirement when necessary. Ms. Davis preferred including language to allow modification by court order as there are times that hearings are held on an expedited basis, making 30 days impossible.

After including the suggested edits and changes, there were no further comments or suggestions from the Committee. Judge Johnson made a motion to adopt the current version of the rule to be presented to the Supreme Court. Ms. Davis seconded the motion, and the motion passed unanimously.

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

The Committee revisited the suggested changes that have been proposed to Rule 16. There is an existing Rule 16, but many parties have shared there have been struggles with its implementation and communication among different jurisdictions. Vice-Chair Russell reported that one proposed version that Judge Leavitt helped to draft has been circulated and is before the Committee for consideration. Another proposal has also been shared with the Committee for consideration, giving the Committee three different versions of the Rule for consideration.

Judge Debra Jensen said that she has received feedback from judges in the Second District and they prefer that arraignment occur in the county of occurrence, and asked Dawn Hautamaki how the courts identify which county is which when there is no prior history or current assigned judge. Ms. Hautamaki reported that the courts rely on information contained in police reports about where a minor’s parents reside and where the incident occurred to identify a home county and a county of occurrence. Ms. Hautamaki shared that other issues arise when a youth is in a treatment center, but the parents reside out of state and noted that the current rules do not address where those matters should be handled. Raymundo Gallardo stated that probation staff can also help determine county of residency when contacting youth and their parents.

Vice-Chair Russell said that out of state youth generally have their cases heard in the county of occurrence because they do not have a county of residence in the state. Vice-Chair Russell shared several concerns with Judge Leavitt's proposed version of the rule, including that he does not believe the county of occurrence should be the arraigning jurisdiction. Vice-Chair Russell believes it would be more appropriate to hold arraignments in the county of residence as it is a local judge that should be able to make decisions to protect that community. This would also create more issues for dual adjudicated children who have child welfare and delinquency matters and would deprive a home judge of vital information on proceedings which they oversee.

Vice-Chair Russell admitted that trying to force prosecutors in different counties to work together and cooperate in making offers to resolve cases is not working and does not appear to have a good solution. Vice-Chair Russell shared his frustration in getting discovery to the parties in a county of residence because even if a case is summarily transferred to a county of occurrence, that information is important to consider for eventual disposition.

Judge Jensen felt that while it was not perfect before, things seemed to be working and that the Committee could consider not taking any action. Vice-Chair Russell answered that short of a straight admission, a cursory arraignment in the county of residence could still be done and then the matter could be transferred to the county of occurrence. Judge Jensen felt that Vice-Chair Russell's suggestion is basically what was being done before. Judge Johnson also brought up the possibility of reverting to the old rule and then modifying it as needed. Mr. Gallardo presented the old rule to the Committee and Vice-Chair Russell shared that one issue before was when there were waivers of arraignment in the county of residence and cases were immediately transferred to county of occurrence. Mr. Starr felt that the old rule seemed to be working well enough and suggested tabling the conversions and looking at the old rule for potential changes when needed. Vice-Chair Russell agreed and did not believe that another work group was needed at this time.

There was no further discussion, and no motions were made regarding adopting any of the proposed versions of Rule 16. No motions were made to put the matter on the agenda for a future Committee meeting. The issue was tabled without further discussion or agenda.

#### **4. Discussion and Action: New Rule 23. Appointment of counsel. (William Russell)**

Vice-Chair Russell reported that this issue was brought to the Supreme Court for consideration and the Supreme Court had a lot of feedback. Justice Pohlman and her staff did an extensive modification of the rule, and multiple justices suggested that this was a solution in search of a problem. Overall, the Supreme Court seemed

reluctant to enact such a rule and was especially not inclined to impose such restriction of privately retained counsel.

Vice-Chair Russell worked with staff to incorporate suggestions from the Supreme Court into a newly proposed draft of the rule and presented that draft to the Committee. Vice-Chair Russell asked the Committee to consider whether to take this version back to the Supreme Court or whether the issue should be tabled indefinitely.

Mr. Severson asked about the constitutional issue of counsel of choice. Vice-Chair Russell addressed that concern and reported that appointed counsel is under contract with local counties. Vice-Chair Russell stated that the current proposal would only apply to contracted counsel and that, if the local contracted attorney did not meet the minimum qualifications, the county must seek out and order the appointment of a qualified attorney, including bearing that cost.

Ms. Davis asked if the Indigent Defense Commission, that originally made the request to adopt such a rule, has weighed in again on this issue. Vice-Chair Russell said that he could seek an update from the IDC to get more input about the specific need for this rule and could take that information back to the Supreme Court. Vice-Chair Russell felt that the Committee should try to bring the rule back to the Supreme Court with the proposed changes.

Judge Jensen asked if there have been any documented transfer cases where claims have been made regarding ineffective assistance of counsel. Vice-Chair Russell did not know of any specific appellate cases but is aware of two instances with retained private counsel where it appeared there were questions about the sufficiency of their representation. Judge Jensen then suggested that if this rule would not apply to privately retained counsel, there would not be any reason to create such a rule. Vice-Chair Russell again acknowledged that the Supreme Court would not impose such restrictions on private counsel.

No motions were made to ask the Supreme Court to consider the new proposal or to consider the rule again at a later date. As such, the rule was tabled indefinitely.

## **5. Discussion and Action: Rule 18. Summons; service of process; notice. (All)**

Vice-Chair Russell reported that additional drafts of Rule 18 have been prepared and there are currently two proposals. Ms. Hautamaki expressed concern that a parent's "preference" is going to be very difficult to track for court staff and would likely require new programming. Ms. Hautamaki shared that court staff she has spoken with did like the language about notice of further proceedings.

Mr. Sevison was concerned about the language “most likely to be promptly received” as that could be subjective. The Committee discussed the different methods of service and whether traditional mail could be considered a prompt method of service.

Ms. Larsen asked if there was a way for a court to track the information about a parent’s email address. Ms. Hautamaki clarified that a court can track a party’s email address, but there is no current way to identify a preferred method of notice.

The Committee added language to the January 6<sup>th</sup> draft that a party must provide an address, email address, and phone number in writing or orally in open court where they may receive notices under the proposed rule. Mr. Sevison was concerned about the requirement of providing a phone number in this rule as it could lead to the assumption that notice can be given by phone. Mr. Gallardo addressed the reference to Rule 6 of the Utah Rules of Criminal Procedure and the end of section 2, and the specific reference to Rule 4 of the Utah Rules of Civil Procedure. Stylistic changes and edits were made, and no further comments were made by the Committee members.

Ms. Hautamaki made a motion to adopt the current draft before the Committee for presentation to the Supreme Court. Judge Jensen seconded the motion, and it passed unanimously.

**6. Discussion and Action: Proposal to add a Chief Probation Officer to the Committee’s membership. (Zerina Ocanovic)**

Zerina Ocanovic, Deputy Juvenile Court Administrator, attended today’s meeting as a guest and reported there has been interest from her division to add an employee of the probation department to this Committee. Vice-Chair Russell noted that the Committee could consider whether a member from probation would be a full voting member, a permanent member, or a rotating representative.

Vice-Chair Russell was very much in support of the proposal to add a Chief Probation Officer as a full voting member of the Committee. Mr. Fureigh wanted to ensure that the rules allow for them to be a full voting member. Mr. Starr felt that allowing them full voting capacity would be a good incentive for applicants.

Ms. Davis stated that probation is a crucial stakeholder in juvenile court and supported adding a full voting member. Carolyn Perkins agreed that they should be added with full voting rights.

Ms. Arndt made a motion to approach the Supreme Court for permission to add a full voting member from probation to the Committee. Ms. Davis seconded the motion, and it passed unanimously.

**7. Discussion: Old business or new business. (All)**

There was not any old or new business brought before the Committee. The meeting adjourned at 2:00 p.m. The next meeting will be held on April 3, 2026, via Webex.