

**UTAH SUPREME COURT ADVISORY COMMITTEE
ON THE RULES OF EVIDENCE**

**MEETING MINUTES
FINAL – WAITING APPROVAL**

**June 14th, 2022
5:15 p.m.-7:15 p.m.
Via Webex**

<u>MEMBERS PRESENT</u>	<u>MEMBERS EXCUSED</u>	<u>GUESTS</u>	<u>STAFF</u>
Chris Hogle Sarah Carlquist Hon. Linda Jones Hon. Vernice Trease Hon. Teresa Welch Hon. David Williams John Nielsen Hon. Michael Leavitt Jacqueline Carlton Adam Alba Dallas Young Teneille Brown Tony Graf	Minhvan Brimhall Melinda Bowen Deborah Bulkeley Ed Havas Jennifer Parrish Nicole Salazar-Hall Hon. Richard McKelvie Matthew Hansen		Bryson King Angelica Juarez

1. WELCOME, INTRODUCTION OF NEW MEMBER, AND APPROVAL OF MINUTES:

Chris Hogle welcomed everyone to the meeting. *Upon no changes suggested, John Nielsen moved to approve the minutes. Sarah Carlquist seconded the motion and it passed unanimously.*

2. REPORT ON FORMATION OF SUBCOMMITTEE TO DISCUSS JUVENILE INTERFACE WITH URE

Judge Leavitt proposed to amend Rule 412 back to how it previously was. Instead, he suggested to amend Rule 101 and 1101 to include some additions.

1101(a) to add “and all juvenile court proceedings unless stated otherwise in the Utah Rules of Juvenile Procedure.”

Mr. Hogle suggested amending other rules along the same lines. Twelve rules use the term “criminal case” and perhaps a subcommittee can look at whether it makes sense to add juvenile court delinquency proceedings in each rule. The same instance would arise in rules in which the

term “civil case” arises. There are four instances in which the rules uses “criminal proceeding.” Mr. Hogle also suggested to take a look at Rule 615(b) and also at instances in which they say civil case to include non-delinquency proceedings.

Judge Leavitt suggested we can accomplish this with a general definitional statement.

Mr. Hogle suggested drafting something to the Supreme Court. Judge Leavitt agreed to put this together.

3. DISCUSSION AND MOTION ON WHETHER TO VACATE COMMITTEE’S VOTE TO APPROVE RULE 412 FOR COMMENT

Bryson King informed the group that we have not received signed order from the Supreme Court. They made a motion and it carried but there is no signed order. Assuming it isn’t yet signed, the committee may still ask the Supreme Court to hold off. Otherwise, it may become effective May 1st if the Supreme Court has in fact already ordered it to be published.

Mr. Hogle asked whether the Supreme court justices voted to adopt Rule 412 as recommended by the committee. Mr. King indicated “yes”.

Mr. Hogle suggested that unless there is a strong view otherwise, we should allow rule 412 to be published as a docket and working on the bigger fix. Judge Leavitt agreed.

Mr. Nielsen agreed with leaving Rule 412 as it is and then have this working group make the criminal terminology consistent.

Judge Leavitt agreed to have this ready to go by next meeting.

4. FEEDBACK FROM SUPREME COURT CONFERENCE PRESENTATION ON RULE 506 AND REVIEW OF SUBCOMMITTEE MEETING

Ms. Carlquist informed the group of the feedback received during the presentation to the Supreme Court. The Supreme Court’s primary concern with the d(2) exception was that it was potentially too broad.

There was a lively discussion amongst the group regarding the use of the term “extrinsic evidence” and whether this phrase is necessary in the context of this rule. The group decided it would be best to draft an advisory committee note to the Supreme Court to get the Court’s feedback. Ms. Carlquist volunteered to draft an updated Advisory Committee Note for approval at the next meeting.

5. DISCUSS HB277’S EFFECT ON RULE 506 AND WHETHER TO ADOPT LANGUAGE TO INCLUDE PROVISIONS FOR JUVENILES

Mr. King discussed HB277, a bill seeking to add a definitional section about juvenile competency restoration and confidentiality to Rule 506. The legislature may also bring forth a bill in the next session to modify Rule 506 to reflect those changes.

The group discussed whether this committee should work to modify the rule instead of allowing the legislature to take the lead. The group ultimately decided to wait on taking any action, at least until we receive more direction or guidance from the Supreme Court.

Tony Graf motioned to adjourn. Judge Leavitt seconded. Judge Williams Third.

Adjourn:

With no further items for discussion, the meeting was adjourned. The next meeting will be on October 11th, at 5:15 pm, via Webex video conferencing.