

AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, February 3, 2023, 9:00 AM
Videoconference Meeting via Webex

- I. Call to Order
- II. Chair's Report
 - A. Minutes of 12/2/2022 meeting [**pages 1–3**]
- III. Old Business
 - A. Drafting Subcommittee (Judge Welling & Judge Furman)
 - 1) Oral Update
 - B. ICWA Subcommittee (Judge Furman & Justice Gabriel)
 - 1) Oral Update
 - C. Vision Subcommittee (Judge Welling)
 - 1) Oral Update
 - D. HB22-1038 Review of Draft Rules Subcommittee (Anna Ulrich)
 - 1) Oral Update
 - 2) See emails on Form Order Appointing CFY & Preview of the Form Order [**pages 4–7**]
 - E. Subcommittee to redraft Re Order to Interview or Examine Child (Anna Ulrich)
 - 1) See attached updated memo & proposals [**pages 8–11**]
- IV. New Business
 - A. Waiver of Jury Trial (Judge Meinster/Judge Moultrie)
 - 1) See emails and rule proposal [**pages 12–16**]
- V. Adjourn

2023 Meeting Schedule: April 7; June 2; August 4; October 6; December 1

Cisco Webex

In order to use Webex videoconferencing, you need an internet connection and a device with a camera, microphone, and speaker (e.g., laptop, smartphone, or tablet).

You can download the Webex software (called “Webex Meetings”) for free in advance [here](#) or from your favorite app store. You can also arrive early to the meeting, click on the link, and then be prompted to download the software.

If you have difficulties using a smart device, the original Webex invite also includes call-in information, so that you can participate by phone. Judicial’s IT department recommends using the Denver call-in number: (720) 650-7664.

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of December 2, 2022**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:00 AM via videoconference. Members present or excused from the meeting were:

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby		X
David P. Ayraud	X	
Jennifer Conn	X	
Traci Engdol-Fruhworth		X
Judge David Furman (acting Chair)	X	
Ruchi Kapoor		X
Magistrate Randall Lococo	X	
Judge Priscilla J. Loew		X
Judge Ann Gail Meinster		X
Trent Palmer		X
Josefina Raphael-Milliner	X	
Professor Colene Robinson		X
Zaven "Z" Saroyan	X	
Judge Traci Slade	X	
Anna Ulrich	X	
Pam Wakefield	X	
Abby Young	X	
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

Meeting Materials:

(1) **Draft Minutes of 10/7/2022 meeting**

(2) **Memo from Drafting Subcommittee (Re Emergency Protection Order Rule)**

II. Chair's Report

A. The 10/7/22 meeting minutes were approved without amendment.

III. Old Business

A. Drafting Subcommittee

Judge Welling updated the committee that the drafting subcommittee is making progress. He passed along three trends with the work. The subcommittee is generally (exceptions sometimes occurring):

- Cross-referencing statutes rather than repeating whole portions of statutory text to avoid overly-lengthy rules;
- Quoting statutory text rather than paraphrasing to avoid confusion or interpretive difficulties; and
- When there is not a statutory “hook” or other authority, remaining silent (avoiding creating new law) or sticking to providing only procedural guidance.

Later in the meeting, when the Chair asked about new business, Z Saroyan asked for the committee to approve the subcommittee’s continued use of cross-references. The committee offered a generalized approval for the approach.

Judge Welling also let the committee know that the drafting subcommittee was now meeting every other week to build momentum and pick up the pace toward completion.

1) Recommendation Re Emergency Protection Orders

Judge Welling related the subcommittee’s request to approve a new direction for the Emergency Protection Order rule, outlined in the memo with the meeting materials. A motion was made and seconded to approve the new direction.

After a brief discussion, the committee voted unanimously to approve the amended rule.

B. Proposed ICWA Rules (Judge Furman)

Judge Furman stated that the subcommittee is almost done with its work.

C. Vision Subcommittee (Judge Welling)

Judge Welling related that he needs to complete something before the survey can go out. He will work on that and hopes to issue the survey in the New Year.

D. HB22-1038 Right to Counsel for Youth (Anna Ulrich)

Anna Ulrich reminded the committee that the new CFY legislation is effective January 9th. The subcommittee has met a couple of times already. Sheri Danz is heading the subcommittee and has designed a work plan that projects completion by next summer. The main challenge will be overlaying with the drafting subcommittee, but there is good communication between subcommittees. The 1038 subcommittee hopes to stay just behind the drafting committee will avoid either subcommittee doing double the work.

E. Subcommittee to redraft Rule on Order to Interview or Examine Child (Anna Ulrich)

Anna Ulrich also provided an update on this subcommittee. The subcommittee has met once, and she projects it will meet 1–2 more times before completing the new draft rule.

IV. New Business

A. Z raised an new issue as outlined in section III(A) of these minutes.

B. It was decided that J.J. Wallace email all the 2023 Webex invites to committee members now, so that the meeting dates will be on everyone's calendars.

V. Adjourn

The meeting adjourned just before 9:30 AM. The next meeting is February 3, 2023 at 9 AM via Webex.

Respectfully Submitted,

J.J. Wallace

Staff Attorney, Colorado Supreme Court

wallace, jennifer

From: Sheri Danz <sheridanz@coloradochildrep.org>
Sent: Thursday, December 29, 2022 6:20 AM
To: o'leary, kelley
Cc: wallace, jennifer; Anna Ulrich; loew, priscilla; welling, craig
Subject: [External] RE: Order of Appointment CFY Draft for SCAO review.doc

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

That works for OCR. Thank you so much.

From: o'leary, kelley <kelley.o'leary@judicial.state.co.us>
Sent: Tuesday, December 27, 2022 4:42 PM
To: Sheri Danz <sheridanz@coloradochildrep.org>
Cc: wallace, jennifer <jennifer.wallace@judicial.state.co.us>; Anna Ulrich <aulrich@coloradochildrep.org>; loew, priscilla <priscilla.loew@judicial.state.co.us>; welling, craig <craig.welling@judicial.state.co.us>
Subject: RE: Order of Appointment CFY Draft for SCAO review.doc

Hi Sheri,

Thanks so much for sending this along. I spoke with Terri and we agreed that, although the process may be slower than we'd all like, the form order really should be vetted through Juvenile Rules. So stay the course over there.

That said, we agree that it would be hugely beneficial for judges and clerks to see a copy of the proposed order before the live date on 1/9/23. Therefore, along with counterparts in our Court Services Division, we would like to send a statewide email to Juvenile Judges and all Clerks of Court with a copy of the proposed order. For now we will leave the statutory language in the draft (instead of adopting ORPC's proposed modification) and will emphasize that this is only a proposed form at this time.

Please let me know if you have any objections to this plan.

Happy New Year!

Kelley O'Leary, JD, LLM
Assistant Legal Counsel
Colorado Judicial Department
1300 Broadway Suite 1200 | Denver, CO 80203
Office: (720) 625-5820

From: Sheri Danz <sheridanz@coloradochildrep.org>
Sent: Wednesday, December 21, 2022 2:10 PM
To: morrison, terri <terri.morrison@judicial.state.co.us>; o'leary, kelley <kelley.o'leary@judicial.state.co.us>
Cc: wallace, jennifer <jennifer.wallace@judicial.state.co.us>; Anna Ulrich <aulrich@coloradochildrep.org>; loew, priscilla <priscilla.loew@judicial.state.co.us>; welling, craig <craig.welling@judicial.state.co.us>
Subject: [External] Order of Appointment CFY Draft for SCAO review.doc

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Terri and Kelley,

I hope all is well with you. I am emailing to give you an update on where we are with the Juvenile Rules 1038 subcommittee review of the CFY appointment order and the attach the current working draft for your review.

This week, the 1038 subcommittee met and was able to discuss the proposed appointment order. The magistrate and judges in attendance (3 total) believe that a form appointment order would be extremely beneficial for courts when this legislation goes into effect 1/9/23. I am copying Judge Loew on this email, who can provide more information if that is helpful.

The draft order that is attached is OCR's original draft, with a few modifications to respond to ORPC feedback. We worked on this language during our meeting and in subsequent correspondence with ORPC. The attached draft incorporates ORPC's feedback, with one exception, which I have flagged in a comment. OCR does not agree with ORPC's modification, as we pulled the language straight from the statute and have put in other language to address ORPC concerns (language that was added to the legislation to address ORPC's concerns with the flagged section during the legislative process). I am happy to continue to explain more, I just am sharing this for now in the interest of being fully transparent with the stakeholder feedback we have received.

Please note that the attached order has not been reviewed by the full Juvenile Rules committee. I am sending it based on our conversation with Kelley last week, in which we stated we would keep you updated on the status of the draft proposed order. I believe the two of you were going to discuss whether this should be vetted through Juvenile Rules or some other process, given the preferred timelines for getting a form appointment order finalized.

While you will likely get an out of office reply from me starting soon, I am actually checking emails and am happy to continue to work on this order this week and next if the State Judicial is interested in getting a form appointment order finalized before 1/9/23. I'm also available to be reached by cell: 303-588-2325.

Thank you.

[DISTRICT or JUVENILE] COURT, [CITY], COLORADO	
Address: [#####] Telephone: [#####]	
<hr/> The People of the State of Colorado, In the Interest of: [Name] Child(ren), and Concerning: [Names] Respondents.	
▲ COURT USE ONLY ▲	
<hr/> Case Number: [#####] Div. [#####]	
<hr/> [Name] Counsel for Youth for [youth name] Attorney Reg. #: [#####] Name: [#####] Address: [#####] Telephone: [#####] E-mail: [#####]	
ORDER OF APPOINTMENT FOR COUNSEL FOR YOUTH	

THE COURT, pursuant to §19-3-203(2), C.R.S., hereby appoints [ATTORNEY NAME] as Counsel for Youth (“CFY”) for the following youth:

- **Name:** [#####], **D.O.B.:** [#####]

CFY is appointed to provide specialized client-directed legal representation for a youth and owes the same duties, including undivided loyalty, confidentiality, and competent representation, to the youth as is due an adult client.

[ATTORNEY NAME] and their legal team, including the CFY’s Case Consultant (CC), [INSERT NAME(S) IF DESIRED – OR DELETE], are entitled, without further authorization or release, to information, including confidential information, regarding the youth. Pursuant to C.R.S. 19-3-203 (4) this includes but is not limited to:

1.25.23

Commented [A1]: To do for this order:

- vet and insert the fingerprint/criminal history provision:
 "The county department shall share with the guardian ad litem or counsel for youth the reports of fingerprint-based criminal history record checks from the Colorado bureau of investigation and from the federal bureau of investigation if the court orders the county department to share that information with the guardian ad litem or counsel for youth."

-vet this order with providers to make sure it won't lead them to release parents' confidential information.

OCR will also prepare a GAL appointment order that mirrors this one prior to our next meeting.

- **the youth's** educational, medical, and mental health records;
- **the youth's** social service agency files;
- **the youth's** court records, including court files involving allegations of abuse or neglect of the youth;
- delinquency records **involving the youth**;
- reports that form the basis of recommendations made to the court; and
- any other information **specifically regarding the youth** relevant to the issues in the proceeding.

This order does not confer an independent right for CFY to obtain a parent's information or a parent's records that are confidential or that are otherwise privileged under state or federal law. **CFY must have a separate court order or release to obtain a parent's confidential or privileged information.**

The court and county department shall keep CFY apprised of significant developments in the case pursuant to §19-3-203(4), including placement notification pursuant to §19-3-213(1)(a).

CFY and their legal team shall have access to the youth (§19-3-203 (4)) and shall attend meetings and staffings concerning the youth as needed (CJD 04-06 (V)(D)(1)(d)).

CFY shall provide developmentally appropriate notice to the youth of all hearings related to the youth's case pursuant to §19-3-502 (4.5).

DONE AND ORDERED this [##] day o [Month], 202[#].

BY THE COURT:

[Judge/Magistrate Name]

Memorandum

To: C.R.J.P. Committee
From: Drafting Subcommittee
Re: Order to Interview or Examine Child
Date: 9/22/22; Updated 1/27/2023 by Subcommittee formed to Redraft the Rule—redlined and clean rule proposals are attached at the end of the memo.

SUMMARY: The Subcommittee recommends forming a subcommittee to redraft this rule.

EXPLANATION: The Subcommittee recognizes that procedures around securing an order to interview or examine a child would be helpful. However, the draft rule does not precisely track the process laid out in section 19-3-308(3), C.R.S. (2022) (e.g., there’s no mention of the proceeding to show cause). The current draft rule also requires an affidavit, which the statute does not. The draft rule also seems to suggest that the interviewer can enter the home to investigate (which the Subcommittee believes would require a search warrant). The Subcommittee generally feels the rule’s language authorizing “investigation” may be too broad.

Present (9/22/2022) Draft Rule:

Order to Interview or Examine Child

- (a) If there is a report of a child being abused or neglected and if the department is denied the ability to interview, observe, or examine the child or the child’s residence or location of the reported abuse by the child’s parent, caretaker, or other responsible person, the department may apply for an order with the juvenile court or district court having jurisdiction for an order that the department be allowed to interview, observe, or examine the child and to conduct any necessary investigation. Such application must be in the form of an affidavit, sworn to or affirmed to before the judge. The affidavit must:
 - (1) identify why the department has determined it necessary to interview, observe, or examine the child or the child’s residence or location of the reported abuse;
 - (2) explain why the department has been unable to interview, observe, or examine the child or to conduct a necessary investigation;
 - (3) identify the person or persons responsible for not allowing the department to interview, observe, or examine the child or the child’s residence or location of the reported abuse; and,
 - (4) identify or describe, as nearly as may be, the premises to be observed or examined.
- (b) If good cause is shown to the court to grant the application, the court must issue an order granting the application. The order must inform the responsible party or parties that failure to comply with the court’s order may constitute contempt and subject the responsible party or parties to incarceration in the county jail until the responsible party or parties comply with the court’s order.

Excerpt of section 19-3-308(3):

(3)(a) The investigation shall include an interview with or observance of the child who is the subject of a report of abuse or neglect. The investigation may include a visit to the child's place of residence or place of custody or wherever the child may be located, as indicated by the report. In addition, in connection with any investigation, the alleged perpetrator shall be advised as to the allegation of abuse and neglect and the circumstances surrounding such allegation and shall be afforded an opportunity to respond.

(b) If admission to the child's place of residence cannot be obtained, the juvenile court or the district court with juvenile jurisdiction, upon good cause shown, shall order the responsible person or persons to allow the interview, examination, and investigation. Should the responsible person or persons refuse to allow the interview, examination, and investigation, the juvenile court or the district court with juvenile jurisdiction shall hold an immediate proceeding to show cause why the responsible person or persons shall not be held in contempt of court and committed to jail until such time as the child is produced for the interview, examination, and investigation or until information is produced that establishes that said person or persons cannot aid in providing information about the child. Such person or persons may be held without bond. During the course of any such hearing, the responsible person or persons, or any necessary witness, may be granted use immunity by the district attorney against the use of any statements made during such hearing in a subsequent or pending criminal action.

Redline rule proposal:

Order to Interview or Examine Child; Investigation

~~(a) If there is a report of a child being abused or neglected and if the department is denied the ability to interview, observe, or examine the child or the child's residence or location of the reported abuse by the child's parent, caretaker, or other responsible person, the department may apply for an order to interview or examine a child or to conduct an investigation pursuant to § 19-3-308 by with the juvenile court or district court having jurisdiction for an order that the department be allowed to interview, observe, or examine the child and to conduct any necessary investigation. submitting an affidavit. Such application must be in the form of an affidavit, sworn to or affirmed before the judge.~~

Commented [AU1]: See People v Dyer 2019 COA 161, 457 P.3d 783 and People in Interest of K.K., No 22CA210 (Colo. App. Sept. 29, 2022) (unpublished) for context.
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~~(b) The affidavit must, at a minimum:~~

Commented [AU2]: After discussion, Sub Comm agrees that affidavit is appropriate since remedy for failure to comply is punitive contempt

- ~~(1) provide identifying information about the child. Identify:~~
- ~~(1)(2) explain why the department has determined it is necessary to interview or examine the child, or to conduct the investigation; w, observe, or examine the child or the child's residence or location of the reported abuse;~~
- ~~(3) identify the person or persons responsible for refusing the interview, examination or investigation; and~~
- ~~(2) explain the circumstances preventing the department from why the department has been unable to interview, observe, or examine the child, or to conducting the a necessary investigation;~~
- ~~(3) identify the person or persons responsible for not allowing the department to interview, observe, or examine the child or the child's residence or location of the reported abuse; and,~~

Commented [AU3]: This phrase promoted significant discussion at 11/18/22 meeting. Question is whether there is any ability for dep't to obtain access to home for investigation purposes, through this section or otherwise? Z would say no; JJ believes they can obtain search warrant, but this statute is not a search warrant statute; ANU wants to conduct add'l research into whether there is authority for department to access home prior to adjudication and to ensure we are not eliminating only statutory authority for investigation into conditions of home with the language in this rule.

- ~~(4) identify or describe, as nearly as may be, the premises to be observed or examined.~~

Commented [AU4R3]: See CRS 19-3-308(2), (3)

~~(c) If good cause is shown to the court to grant the application, the court must issue an order the responsible person or persons granting the application to allow the interview, examination, and investigation.~~

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~~(d) The order must inform the responsible person or persons party or parties that failure to comply with the court's order may result in being held in contempt of court and constitute contempt and committed to jail subject the responsible party or parties to incarceration in the county jail without bond until the responsible person or persons party or parties complies with the court's order.~~

Order to Interview or Examine Child; Investigation

- (a)** The department may apply for an order to interview or examine a child or to conduct an investigation pursuant to § 19-3-308 by submitting an affidavit, sworn or affirmed to before the judge.
- (b)** The affidavit must, at a minimum:
 - (1)** provide identifying information about the child;
 - (2)** explain why it is necessary to interview or examine the child, or to conduct the investigation;
 - (3)** identify the person or persons responsible for refusing the interview, examination or investigation; and
 - (4)** explain the circumstances preventing the department from interviewing or examining the child, or conducting the investigation.
- (c)** If good cause is shown to the court to grant the application, the court must order the responsible person or persons to allow the interview, examination, and investigation.
- (d)** The order must inform the responsible person or persons that failure to comply with the court's order may result in being held in contempt of court and committed to jail without bond until the responsible person or persons complies with the court's order.

wallace, jennifer

From: meinster, ann
Sent: Friday, July 8, 2022 12:43 PM
To: wallace, jennifer
Subject: FW: Juvenile Rules question

Hi, Judge Moultrie and I traded some thoughts on this. She made what I thought was a good suggestion:

Striking the in-person from the original draft to allow for the possibility of virtual appearances at p/t conferences so it reads:

“A party who demanded a trial by jury fails to appear at a pretrial conference, without good cause, when ordered by a court:”

Also, would it help to define pretrial conference? For example, the 1st JD requires participation in a Case Mgmt Conference (CMC) prior to a jury trial. It is court-ordered. If they fail at the CMC, would that constitute a waiver with good cause findings?

Just a few thoughts! Enjoy the weekend!

Ann Gail Meinster
Presiding Juvenile Judge
1st JD-Div 10
Golden, CO

From: moultrie, pax <pax.moultrie@judicial.state.co.us>
Sent: Sunday, June 26, 2022 12:28 PM
To: meinster, ann <ann.meinster@judicial.state.co.us>
Subject: RE: Juvenile Rules question

I would not think a pre-trial conference would cover a CMC, also I don't know that it should? I guess I would be less inclined to find a waiver from a FTA to a CMC because at least the attorneys should be showing up at a CMC to exchange information/offers.

From: meinster, ann <ann.meinster@judicial.state.co.us>
Sent: Sunday, June 26, 2022 7:42 AM
To: moultrie, pax <pax.moultrie@judicial.state.co.us>
Subject: RE: Juvenile Rules question

Thanks Pax. Good point on the in-person. I also wonder if “pre-trial conference” encompasses things like Jeff CO's CMCs or whether a broader term would be better.

Ann Gail Meinster
Presiding Juvenile Judge
1st JD-Div 10

Golden, CO

From: moultrie, pax <pax.moultrie@judicial.state.co.us>
Sent: Saturday, June 25, 2022 2:00 PM
To: meinster, ann <ann.meinster@judicial.state.co.us>
Subject: RE: Juvenile Rules question

Hello! Yes I think this will absolutely cover being able to convert a jury trial to a court trial at the pre-trial conference stage or on the trial date so long as good cause findings are made. The only amendment I make to the pre trial conference portion is striking “in person,” to allow for the flexibility of virtual pre-trial conferences.

a party who demanded a trial by jury fails to appear at a pretrial conference, without good cause, when ordered by a court;

I also like that the “demand” portion allows for a jury trial request within a reasonable time if allowed by the court because I think give a little flexibility/relief from attorneys setting a jury trial on behalf of their client so as to preserve the right, even if its not clear that’s what the client wants.

From: meinster, ann <ann.meinster@judicial.state.co.us>
Sent: Saturday, June 25, 2022 9:51 AM
To: moultrie, pax <pax.moultrie@judicial.state.co.us>
Subject: FW: Juvenile Rules question

Hi there, I had told you I thought the juvenile rules committee had addressed the waiver of jury trials. We did but it was a while ago! JJ sent the draft of the proposed rule below. Any thoughts on it?

Ann Gail Meinster
Presiding Juvenile Judge
1st JD-Div 10
Golden, CO

From: wallace, jennifer <jennifer.wallace@judicial.state.co.us>
Sent: Tuesday, June 21, 2022 8:58 AM
To: meinster, ann <ann.meinster@judicial.state.co.us>
Subject: FW: Juvenile Rules question

Hi Judge,

Yes, there is something in our current rule draft about Waiver of a jury trial. Here’s the present draft rule (the drafting subcommittee hasn’t reviewed it yet, so if you have any feedback, I’d be happy to pass it along):

Trial by Jury

- (a) Demand.** At the time the allegations of the petition are denied or within such additional time as the court may allow, the petitioner, any respondent, any **guardian ad litem** for a child, or the court on its own motion, may demand an adjudicatory hearing by a jury of six persons. If a jury trial is not demanded in a timely manner the adjudicatory hearing will be to the court.
- (b) Waiver.** The court may find the right of a party to a trial by jury is deemed waived, after being advised and receiving notice, if:
- (1)** a party entitled to demand a trial by jury fails to make a timely jury demand;

- (2) a party who demanded a trial by jury consents in writing or on the record to withdraw his or her jury demand before the adjudicatory hearing;
 - (3) a party who demanded a trial by jury fails to appear in person at a pretrial conference, without good cause, when ordered by a court; or
 - (4) a party who demanded a trial by jury fails to appear in person at the adjudicatory hearing, without good cause.
- (c) **Examination, Selection, and Challenges:** Except as otherwise provided in this rule, examination, selection, and challenges for jurors in dependency or neglect actions should be as provided by Rule 47 of the Colorado Rules of Civil Procedure.
- (d) **Peremptory Challenges:** [to be updated].
- (e) **Unanimity:** Unless otherwise agreed by the parties pursuant to Rule 48 of the Colorado Rules of Civil Procedure, any verdict of a jury in an adjudicatory hearing must be unanimous.

(We've highlighted all the references to GALs in the draft rules because the subcommittee wants to examine whether the new legislation on client-directed services impacts the reference).

Let me know if you need anything else.

Take care,

J.J.

From: meinster, ann <ann.meinster@judicial.state.co.us>
Sent: Sunday, June 19, 2022 1:05 PM
To: wallace, jennifer <jennifer.wallace@judicial.state.co.us>
Subject: Juvenile Rules question

Hi JJ, I've been asked whether the new juvenile rules include anything on when the right to a D&N adjudicatory jury trial is waived and I just couldn't remember if we addressed it. I figured if anyone knew, it was you! THanks

Ann Gail Meinster
Presiding Juvenile Judge
1st JD-Div 10
Golden, CO

CURRENT DRAFT RULE:

Trial by Jury

- (a) **Demand.** At the time the allegations of a petition are denied, a respondent, petitioner, or a child through their guardian ad litem or counsel for youth may demand of the court, on its own motion may order, a jury of not more than six. Unless a jury is demanded or ordered, it ~~shall~~will be deemed waived.
- (b) **Waiver.** The court may find the right of a party to a trial by jury is deemed waived, after being advised and receiving notice, if:
 - (1) a party entitled to demand a trial by jury fails to make a timely jury demand;
 - (2) a party who demanded a trial by jury consents in writing or on the record to withdraw his or her jury demand before the adjudicatory hearing;
 - (3) a party who demanded a trial by jury fails to appear in person at a pretrial conference, without good cause, when ordered by a court; or
 - (4) a party who demanded a trial by jury fails to appear in person at the adjudicatory hearing, without good cause.
- (c) **Examination, Selection, and Challenges:** Except as otherwise provided in this rule, examination, selection, and challenges for jurors in dependency or neglect actions should be as provided by Rule 47 of the Colorado Rules of Civil Procedure.
- (d) **Peremptory Challenges:** Examination, selection, and challenges for jurors in such cases shall be as provided by C.R.C.P. 47, except that the following three groups shall each have three peremptory challenges: the petitioner; all respondents; and all the children (through their guardian ad litem or counsel for youth). No more than nine peremptory challenges are authorized.
- (e) **Unanimity:** Unless otherwise agreed by the parties pursuant to Rule 48 of the Colorado Rules of Civil Procedure, any verdict of a jury in an adjudicatory hearing must be unanimous.

PROPOSED CHANGE TO (b)(3):

Trial by Jury

- (a) **Demand.** At the time the allegations of a petition are denied, a respondent, petitioner, or a child through their guardian ad litem or counsel for youth may demand of the court, on its own motion may order, a jury of not more than six. Unless a jury is demanded or ordered, it ~~shall~~will be deemed waived.
- (b) **Waiver.** The court may find the right of a party to a trial by jury is deemed waived, after being advised and receiving notice, if:
 - (1) a party entitled to demand a trial by jury fails to make a timely jury demand;
 - (2) a party who demanded a trial by jury consents in writing or on the record to withdraw his or her jury demand before the adjudicatory hearing;
 - (3) a party who demanded a trial by jury fails to appear ~~in person~~ at a pretrial conference, without good cause, when ordered by a court; or
 - (4) a party who demanded a trial by jury fails to appear in person at the adjudicatory hearing, without good cause.

- (c) **Examination, Selection, and Challenges:** Except as otherwise provided in this rule, examination, selection, and challenges for jurors in dependency or neglect actions should be as provided by Rule 47 of the Colorado Rules of Civil Procedure.
- (d) **Peremptory Challenges:** Examination, selection, and challenges for jurors in such cases shall be as provided by C.R.C.P. 47, except that the following three groups shall each have three peremptory challenges: the petitioner; all respondents; and all the children (through their guardian ad litem or counsel for youth). No more than nine peremptory challenges are authorized.
- (e) **Unanimity:** Unless otherwise agreed by the parties pursuant to Rule 48 of the Colorado Rules of Civil Procedure, any verdict of a jury in an adjudicatory hearing must be unanimous.

Futher Question:

- 1) Should the committee consider defining pretrial conference?