

AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, August 6, 2021, 9:00 AM
Videoconference Meeting via Cisco Webex

- I. Call to Order
- II. Chair's Report
 - A. Approval of the 6/11/21 meeting minutes [pp. 2-5]
- III. Old Business
 - A. Rule Proposal from the Access to Justice Committee Re Interlocutory Appeal Advisement (Melanie Jordan)
 - Update
 - B. Proposed ICWA Rules (Judge Furman)
 - Update
 - C. Committee Membership Make Up (Chair)
 - Update
 - D. Pending Reorganization of Article 2, Title 19.
 - SB21-059 [Signed](#) effective October 1, 2021
 - Hold pending new juvenile justice members, then subcommittee
 - E. [HB21-1094](#) – (Sheri Danz)
 - Report [pp. 6-7]
 - Judge Furman's Email re: bench cards [p. 8]
- IV. New Business – (none)
- V. Adjourn
 - A. Next Meeting: **October 8th**

Cisco Webex

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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 June 11, 2021**

I. Call to Order

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

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair	X	
David P. Ayraud		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhworth	X	
Judge David Furman	X	
Melanie Jordan	X	
Ruchi Kapoor	X	
Peg Long	X	
Clancy Johnson for Judge Ann Meinster	X	
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson	X	
Magistrate Fran Simonet		X
Judge Traci Slade		X
John Thirkell	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 from 4.23.2021 meeting
- (2) Three versions of interlocutory advisement
- (3) Supplementary materials from Sheri Danz Re HB21-1094 (via email)

II. Chair's Report

- A. The 4/23/21 meeting minutes were approved without amendment.

III. Old Business

- A. Rule Proposal from Access to Justice Committee re Interlocutory Appeal Advise ment

The chair suggests first discussing whether the committee believes we should move forward with a rule on advisement (not a specific rule—just the concept). After discussion, the committee voted. Ten members were in favor of moving forward with a rule. Members who did not vote in favor abstained and no member voted against moving forward.

The committee then discussed the particulars of an advisement rule. The chair noted that the committee should make decisions in three areas:

- (1) **What should court do/say in advisement?** Outline the specific things that parties must be advised of.
- (2) **How should the court do the advisement?** The committee discussed requiring a written advisement on an adjudication or dispositional order; an oral advisement; or a form advisement incorporated into an appendix to the rules as a JDF. The committee seemed to favor some form of written advisement, although it was mindful that, if a written advisement is required on an order, then by implication the rule requires a written order.
- (3) **And timing of advisement?** A suggestion was made to include the advisement in C.R.J.P. 4.2 at the initial hearing. Others favored requiring the advisement after adjudication or disposition. It was also noted that it does not have to be one or the other-- that the court can advise at beginning but then also do it later.

After discussion, the committee decided to form a subcommittee to work on the issue and make recommendations to the larger committee. Melanie Jordan was selected to lead the group. Sheri Danz, Clancy Johnson, and David Ayraud offered to help. Abby Young offered to put the subcommittee in touch with Denver juvenile magistrates, and a suggestion was made to reach out to a rural juvenile judge or magistrate to get their perspective.

- B. Proposed ICWA Rules

Judge Furman reports that the group “is making progress.” Justice Gabriel adds that Judge Furman is being modest, and the group is doing really thoughtful work.

- C. Committee membership makeup

The chair reports we received many recommendations and will come back to the group with some more concrete recommendations on what the committee make-up should be. Email Judge Welling or J.J. Wallace if you have more suggestions.

D. Pending Reorganization of Article 2, Title 19

Sheri Danz let the committee know that she and Clancy Johnson are on a committee to produce summary materials on the reorganization and will share that info with this committee. It's still anticipated that, once juvenile justice stakeholders are added to the committee, a subcommittee will be formed to examine the new legislation to see if rules changes are needed.

IV. New Business

A. How to Conduct Future Meetings

The Colorado Judicial Center lifts its restrictions on in-person meetings after June. The conference rooms in the building do not have videoconferencing capabilities, so the technology available for people to participate remotely is the same as before the pandemic: telephone conference call and adobe connect link to view a computer screen. The committee held a brief discussion about meeting in person and decided to hold the August 6th meeting via Webex. If in-person meetings are scheduled in the future, committee members would like to be informed of restrictions/safety protocols ahead of time.

B. HB21-1094

Sheri Danz explained that the legislature has developed a new Article 7 case type, Foster Youth in Transition. There are two ways for youth to come into this case type. First, D&N cases will end no later than when the youth is 18½ and the youth will transition into the Foster Youth in Transition case type. Second, youth who have left foster care after age 16 can come back into services through the new case type. Sheri Danz anticipates the new case type may need rules setting out procedures for this new case type.

The committee agrees that that putting together a subcommittee to look at the new legislation and to make recommendation for rules is warranted. Sheri Danz will to lead the group. Clancy Johnson and Peg Long volunteered to assist her.

Committee members also suggested reaching out to Jennifer Mullenbach, Jeffco Attorney and/or John Thirkell, Dougco Attorney and Gretchen and/or Kristin from CDHS. Also, former magistrate Kent Spangler.

V. Adjourn

Next meeting, August 6, 2021 at 9 AM via Webex.

Respectfully Submitted,

J.J. Wallace
Staff Attorney, Colorado Supreme Court

UNOFFICIAL

To: Juvenile Rules Committee

From: HB21-1094 rules subcommittee/work group

Re: Recommendation regarding juvenile rules

Date: July 8, 2021 for August 6, 2021 meeting

HB21-1094, which went into effect immediately upon the Governor's signature, establishes a new program for transition-age youth in Colorado's Child Welfare system. This legislation makes changes to existing Article 3 proceedings and establishes a new Article 7 proceeding for eligible youth over 18 who are voluntarily seeking services and supports from county departments of human services. At the June 11, 2021 Juvenile Rules Committee, this legislation was discussed and a time-limited work group/subcommittee was established to review the legislation and make recommendations regarding the need for rules to implement this new legislation.

On July 7, 2021, the subcommittee/work group met. The following individuals attended this meeting: JJ Wallace (Supreme Court staff attorney); Kent Spangler (GAL, former magistrate); Clancy Johnson (First Judicial District staff attorney); Sheri Danz (OCR); Kayla Cooley (State Judicial); Jeremy Ford (State Judicial); Peg Long (Colorado CASA); Gretchen Russo (CDHS); Kristin Melton (CDHS).

The subcommittee considered the purpose of juvenile rules and the charge of the Juvenile Rules Committee. The subcommittee then reviewed the legislation itself, with a goal of determining whether juvenile rules could address any procedural gaps in the legislation.

The subcommittee recommends that the Juvenile Rules Committee:

- **Does not propose juvenile rules to implement the new Article 7 provisions at this time.**
- **Review the permanency rules to determine whether any revisions are needed to address the changes made by the legislation.** While the subcommittee specifically identified the changes to § 19-3-205 as ones that might require revisions to the permanency rules, the Permanency subcommittee may identify others.

The legislation contains many detailed procedural requirements, and the subcommittee did not identify any gaps that could be addressed by rule. The committee discussed some questions raised by the legislation but concluded that these questions will be addressed by existing rules or other procedures and practices. Notably, Article 7 proceedings are not D&N proceedings, so any rules regarding those provisions would be outside the scope of D&N rules. Regardless, given the detailed procedural provisions in the legislation, it makes sense to allow implementation for a while and, if issues arise, consider whether juvenile rules could be promulgated to address those issues.

While the subcommittee is not recommending rules at this time, in case it is helpful to the Rules Committee, following is a summary of some of the questions/potential issues the subcommittee discussed:

- Transitioning relationship from GAL to client-directed: OCR is consulting with the Office of Attorney Regulation and has already begun to offer training and supports for this transition.
- Information/file-sharing between courts when an eligible youth seeks services in a county other than the county where the original D&N case occurred: E-filing will account for this in the future; CDHS is currently drafting rules to govern information sharing between counties.
- Appointment of counsel—While Article 3 provisions set forth a procedure for the court to follow regarding the transition to counsel, Article 7 provisions provide for right and assignment pre-filing, not appointment/advisement upon filing: existing counsel of record rules recognizing that by filing a written entry of appearance or appearing in court, counsel can be recognized as counsel of record. While there remains a possibility that some youth may appear in court without legal representation, CDHS and OCR are working on outreach and support materials that should minimize this possibility. Ongoing monitoring of the implementation of this legislation should inform whether rules are required regarding advisement and appointment of counsel for unrepresented eligible youth.
- Consistent practice by court personnel who may come into contact with eligible youth (i.e., Self Help Litigant Coordinators, clerks): Outreach and support materials rather than rules will serve to promote best practices by these court personnel. OCR will share the resources it is developing with State Judicial staff. A group of CIP committee members are also working on coordinating efforts with regard to implementation of HB21-1094.
- Consistent petitions: CDHS, OCR, and other stakeholders have been working on a sample petition. CDHS shared this draft petition with subcommittee members, including SCAO staff, who may prepare a form petition. While some of the petition requirements may be difficult or not make as much sense for youth who are initiating their own petitions, the CDHS group is working through those challenges.
- Is there a need for ICWA and UCCJEA procedures? ICWA won't apply because eligible youth do not meet the definition of "Indian child." Similarly, legislation was carefully drafted to make clear that the placement orders are not custody orders as defined by the UCCJEA.
- Role/availability of CASA for eligible youth: determining this will require statutory analysis and potential programming rather than rule promulgation.

wallace, jennifer

From: furman, david
Sent: Wednesday, July 14, 2021 4:57 PM
To: welling, craig; wallace, jennifer
Subject: juvenile rules

Hi Craig!

At today's CIP meeting, passage of HB 1094 was discussed. I think some don't want a rule. Instead, they want bench cards. Would it be possible to add this to the next meeting agenda? I don't know enough about it to present.

-Dave