

**Colorado Supreme Court Rules of Juvenile Procedure Committee  
Minutes of August 2, 2019 Meeting**

**I. Call to Order**

The Rules of Juvenile Procedure Committee came to order around 9:30 AM in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhworth	X	
Claire Collins for Judge David Furman	X	
Ruchi Kapoor	X	
Shana Kloek		X
Wendy Lewis		X
Peg Long	X	
Judge Ann Meinster	X	
Judge Dave Miller	X	
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson		X
Magistrate Fran Simonet		X
Judge Traci Slade	X	
Magistrate Kent S. Spangler		X
John Thirkell		X
Pam Wakefield		X
<b>Non-voting Participants</b>		
Justice Richard Gabriel, Liaison		X
Terri Morrison	X	
J.J. Wallace		X

**Attachments & Handouts:**

- (1) Rule 2.1 (appointment of counsel) new draft
- (2) HB19-1232 (ICWA)
- (3) HB19-1219 (Permanency)

#### **(4) Email on Implementation of Rules**

### **II. Chair's Report**

A. The 5/3/19 minutes were approved without amendment.

### **III. Old Business**

A. Review of Present C.R.J.P

1. Rule 2.1 (appointment of counsel)

Ruchi Kapoor explained that the updated draft reflects the feedback at the last meeting that the rule should make clear that the provisions of the rule outlining termination of representation, withdrawal, and substitution only apply to counsel representing respondents and not to GALs. Accordingly, subsection two refers to counsel for respondents (the committee removed parent from the title because section 19-3-202, C.R.S. (2018) grants the right to counsel to parents, guardians, or legal custodians).

The committee also wants to distinguish counsel for respondents (guaranteed by the statute) from counsel for special respondents or intervenors. The committee decided that the civil rule governing entry of appearance and withdrawal, C.R.C.P. 121 § 1-1, would provide adequate procedures for counsel representing special respondents and intervenors and the draft should incorporate the rule by reference in the juvenile rule.

The committee examined the notice of withdrawal provision of the draft rule. The committee felt that subsection (V) should include a list or statement of all future court dates in addition to an advisement that the respondent is obligated to appear on those dates.

ORPC indicates that this notice provision will mostly apply to private counsel because its office usually substitutes counsel, but there are rare cases where clients run through all the county's RPCs or the client wants to appear pro se. Subsection (IV) says "[t]hat a hearing will be held," but there is no follow-up provision outlining hearing procedures in the draft rule. Committee members leaned toward only allowing withdrawal of a counsel for a respondent after a hearing and were hesitant to approve a process that does not involve a hearing and an advisement for the respondent.

Committee members explained that, when a respondent wants to fire counsel and represent themselves, the respondent is giving up an important statutory right. Committee members reiterated that most motions to withdrawal are addressed at the nearest upcoming court date, and the judge gives an *Arguello* style advisement to the respondent before granting withdrawal (if the withdrawal is at the request of the respondent). All the trial judges on the committee indicated that they never sign a withdrawal order without first giving an advisement. But, one committee member did raise the issue-what if counsel wants to withdraw and the client (parent, guardian, or legal custodian) cannot be found and advised?

Committee members felt comfortable with allowing substitution of counsel by written motion and order (without a hearing). Thus, the committee agreed that there should be a contrast between withdrawal situations (advisement of statutory right to counsel & hearing required) and substitutions (no hearing required).

The committee felt that the language of the termination of representation section should be modified to cover private counsel for respondents and should also include language making it discretionary with the court or attorney-client to continue representation.

## 2. Draft set of Rules

Feedback still welcome. Look at draft rules as situations arise-if an issue becomes apparent email chair & J.J.

The chair related that he was interested in working to formalize the draft. He wanted to reach out to a small group of people to go over draft; identify conflicts; make reconciliations, standardize word usage, format, structure, etc. before producing a final product for committee's approval. The committee approved of this approach.

## **IV. New Business**

### 1. Other Committee News: Civil Rules Forming Magistrate Rules Subcommittee

The chair explained that the civil rules committee is in the very early stages of forming a subcommittee to look at the magistrate rules. Other than looking at some issues related to domestic relations cases, no decision has been made on whether the subcommittee will recommend a broad overhaul of all rules or whether they will recommend narrow tweaks to the rules. However, given that the juvenile rules committee has noted tension with between the juvenile magistrate statute and the C.R.M., the chair wanted to reach out to the magistrate rules subcommittee to see if they will accept input from the juvenile rules committee. Ruchi Kapoor volunteered to assist the subcommittee. Judge Ashby did as well (as permitted by her schedule-she will be out of town for some of the fall and winter). Magistrate Spangler was unable to attend the meeting today, but works as a juvenile magistrate, so the committee suggested reaching out to him to gauge his interest.

### 2. HB19-1232 (ICWA)

The chair spoke with Judge Furman, chair of the subcommittee on ICWA. Judge Furman was working integrating the new statute in a stand-alone rule covering ICWA (not integrating ICWA into the various rules). The chair indicated that Judge Furman would be convening the subcommittee soon.

### 3. HB 19-1219 (Permanency)

Judge Meinster, chair of the permanency subcommittee, indicated that the subcommittee will be reconvening to examine the impact of the new legislation on the current version of the draft rule.

#### 4. Need for Piecemeal Adoption of the Rules

The committee roundly rejected this idea. The committee believe the rules are too interdependent and integrated and, in other contexts in juvenile, a piecemeal approach has led to problems

#### V. Adjourn Next Meeting October 4, 2019

The Committee adjourned at 11:05 PM.

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*Respectfully Submitted,*  
*J.J. Wallace*