

**Colorado Supreme Court Juvenile Rules Revision Committee
Minutes of March 11, 2016 Meeting**

A quorum being present, the Juvenile Rules Revision Committee was called to order by Judge Karen Ashby at 1:30 p.m., 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:

Name	Present	Excused
Judge Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Charlene Benton	X	
Gina Bischofs		X
Kelly Boe		X
Vivian Burgos		X
Jennifer Conn	X	
Traci Engdol-Fruhworth	X	
Shana Kloek		X
Kendall Marlowe		X
Tom Maxwell	X	
Judge Ann Meinster	X	
Judge Dave Miller	X	
Lauren Mueller		X
Chief Judge Mick O'Hara	X	
Professor Colene Robinson		X
Magistrate Fran Simonet		X
Judge Teresa Slade	X	
Karen Stall		X
John Thirkell		X
Judge Douglas Vannoy	X	
Judge Jeffrey Wilson	X	
Non-voting Participants		
Justice Allison Eid, Liaison	X	
Terri Morrison	X	

- I. Attachments & Handouts**
 - A. March 11, 2016 agenda
 - B. November 6, 2015 minutes

II. Announcements from the Chair

- Judge Ashby reminded the committee that the May, August, and November committee meetings will be held at 9:30.
- Gina Bischofs had been appointed to the committee, and she has agreed to chair the ICWA subcommittee.

III. Old Business

A. Juvenile Shackling

After a failed legislative attempt last year, each judicial district was drafting a juvenile shackling plan. The committee had decided to revisit juvenile shackling after all district plans were submitted and when it knew whether or not a legislative remedy would be pursued in 2016. Since the last meeting, House Bill 1331, Concerning the Use of Restraints on a Juvenile during a Court Proceeding, had been introduced. The bill requires restraints on a juvenile to be removed before any court proceeding, except when the court determines the restraints are necessary to prevent: physical harm to the juvenile or others; disruptive courtroom behavior, evidenced by a history of such behavior; or, escape. An attorney must be given the opportunity to be heard and the hearing may be conducted without the presence of the juvenile. Ms. Morrison will keep the committee updated on the status of the bill.

B. Subcommittee Updates

1. Case Commencement has drafts ready to be circulated to the larger committee. They have drafted the following rules: scope and applicability; search warrant for a child; report of abuse and neglect, which includes an automatic advisement for contempt; temporary custody; and emergency protection. They still need to draft forms and they are working on a definition section. When asked what the biggest change was, the subcommittee said it was the contempt proceeding; they tried to follow the statutes without repeating them.
2. Pre-Adjudication reported that they have drafts ready to be circulated to the larger group. Pre-Adjudication worked with the Case Commencement and Discovery Subcommittees to ensure that overlapping issues were divided up.
3. Discovery has a working draft. Initially a lot of time was spent on the philosophy and public policy behind the rules. The issues that still need to be addressed are: privilege; confidentiality; waiver mechanisms; a release form (one has been drafted but it needs further review by the subcommittee); inadvertent disclosure; privilege logs; sanctions; and, mandatory disclosures. The rules that have been drafted to mirror the civil rules, but the rules have been tailored to a D&N docket. The Subcommittee has working drafts, but is not prepared to send anything to the larger group. In the future the subcommittee might want to run certain issues by the committee.
4. Adjudication has drafted nine rules. The rules cover: parties; responsive pleadings and motions; summary judgment; the adjudicatory hearing; jury trials; consolidation and separate trials; evidence; time and continuance; and informal adjustments. Topics still to

be covered are: continued adjudication; adjudication by default; and adjudication by admission or stipulation. The subcommittee has reached out to the Discovery Subcommittee for guidance on certain issues. Judge Ashby asked if the right to appear by phone or otherwise remotely would be added to the adjudicatory hearing? Judge Vannoy said that yes, absentee testimony has been included in the evidence rule and references CRCP 43. The evidence rule also includes evidence provisions in the children's code.

5. Dispositional Review has a few rules and outlines. They broke the disposition rules into a few categories, to include timing and the treatment plan. Drafts are forthcoming.
6. Permanency Planning has drafted two rules; one covering the initial permanency hearing and the second on a subsequent hearing. Section 19-3-702, C.R.S. doesn't address a contested evidentiary hearing, and this has been an issue for the subcommittee. A majority of the subcommittee doesn't believe there is a right to a contested evidentiary hearing at the permanency hearing. However, the subcommittee is still studying the issue.
7. Termination had flagged a few issues related to disclosure and discovery that need to be addressed by the Termination Subcommittee or the Discovery Subcommittee. Also, the subcommittee is working on presumptions or consequences for failure to appear, and procedures and party roles at a default hearing. One suggestion for the subcommittee was to look at offers of proof/statements of fact at the termination hearing.
8. Post-Termination went through §19-3-606, C.R.S. and decided what needs to be added to the Post-Termination rule. The Subcommittee had focused on identifying the parties (the court, GAL, and DHS) and the duties of each party at every stage of a post-termination hearing. The subcommittee's goal is to be specific in stating each party's responsibilities. Also, the subcommittee is thinking of adding a comment to the rule.

Judge Ashby encouraged members to bring issues or problems to the attention of the larger committee, and she thanked all members for all of their hard work and commitment.

IV. Future Meeting
May 6, 2016

The Committee adjourned at 3:00pm

Respectfully Submitted,
Jenny Moore