

AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, August 2, 2024
Videoconference Meeting Via Webex

- I. Call to Order
- II. Chair's Report
 - a. Minutes of 6/7/2024 Meeting [pages 2–4]
 - b. Implementation of C.R.J.P. 4.6
- III. New Business
 - a. Drafting Subcommittee
 - i. Memo on C.R.J.P. 2 series [pages 5–8]
 - ii. Any general comments/feedback on draft rules?
- IV. Old Business?
- V. Adjourn

Upcoming Meeting Schedule: October 4, 2024; December 6, 2024; February 7, 2025

**Colorado Supreme Court
Rules of Juvenile Procedure Committee
Minutes of June 7, 2024 Meeting (Unofficial)**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:00 AM via videoconference.

Members present for the meeting were: Judge Craig R. Welling, Chair; Jerin Damo; Traci Engdol-Fruhworth; Judge Pax L. Moultrie; Professor Colene Robinson; Angela Rose; Zaven (Z) Saroyan; Lisa Shellenberger; Judge Theresa Slade; Anna Ulrich; Pamela Gordon Wakefield; and Abigail Young.

Justice Richard Gabriel, Liaison, and J.J. Wallace were also present as non-voting members.

Members excused from the meeting were: Judge Karen A. Ashby; David P. Ayraud; Judge David Furman; Magistrate Randall Lococo; Judge Priscilla Loew; Judge Ann Meinster; and non-voting member Terri Morrison.

II. Chair's Report

A. **Welcome New Members.** Justice Gabriel began the meeting and welcomed the new members to the committee: Judge Pax Moultrie; Lisa Shellenberger; Angela Rose, and Jerin Damo. The new members introduced themselves, and then current committee members introduced themselves to the new members.

B. **Minutes.** The 2/2/24 meeting minutes were unanimously approved.

C. **Announcement.** The Chair stated that C.R.J.P. 4.6 was adopted by the supreme court and will be effective 7/1/2024. The chair recapped that the supreme court received insightful public comments. Those comments were referred to the Drafting Subcommittee to consider and many were incorporated into the revised rule proposal that was sent back to the supreme court.

The Chair asked members about their roll-out efforts and whether they had received feedback. Members from OCR and ORPC indicated that they had sent notices to their attorneys and had scheduled training. Another member heard that the topic was raised at the recent county attorney conference. Lisa Shellenberger offered to reach out to private counsel through an email LISTSERV for private attorneys and by putting together a CLE. Justice Gabriel also suggested publishing an article in The Colorado Lawyer, if an article could be drafted quickly.

III. New Business

A. Drafting Subcommittee

1) **Civil Rules.** The Chair briefly summarized the memo, the proposed rule outlined in the memo, and the committee's past philosophical debate about whether to use the civil rules. He explained that the Drafting Subcommittee waited until the end of its process to make a final decision on incorporating the civil rules. Justice Gabriel noted that the idea not to use the civil rules came from a desire to make the juvenile rules easy for practitioners by making them one-stop-shopping.

However, after exploring this approach, the subcommittee felt that there should be limits to so much repetition with the civil rules. Another member of the subcommittee emphasized that referencing the civil rules maintains the status quo. A motion was made and seconded to adopt the recommendation. It was unanimously approved.

- 2) **Motions Rule.** The Chair summarized the memo and outlined the proposed rule. One member thought, on first reading, that section (b) (stating that responses to motions are not required) and section (d) (on forthwith and emergency motions) may be inconsistent because (d) says “any objection or response must be filed within 72 hours.” A subcommittee member explained that the intent of the rule was to not require responses of any kind, but if a party chooses to respond, then there is a shorter time to respond under (d). A consensus was reached that the rule as presented in the memo could be clarified. Committee members offered several suggestions for making the provisions clear and sent it back to the subcommittee to carry out the clarification of (b) and (d).

Another member raised an issue with the wording of subsection (a) and asked whether a party could file a motion after the deadlines provided if they cited good cause. The member was specifically thinking of last-minute motions for absentee testimony. The committee felt that the member raised a good point and added “or for good cause shown” so that that it’s clear a last-minute motion of that sort could be filed.

- 3) **Permanency Rule.** The Chair recapped the recommendation to substantially pare down the permanency rule. Other subcommittee members offered brief comments. The Chair asked the committee if everyone agreed with the recommendation. No formal vote was taken, but members nodded their heads yes or offered a thumbs up in the videoconference and a clear “yes” was given.

The Chair also noted that the subcommittee recommended removing the form notice. By way of background, he explained that the subcommittee was recommending removing all the forms from the rules. Justice Gabriel explained that the supreme court decided to get away from including forms in the rules and, instead, have SCAO do forms to allow for a more efficient publication process. Rules committees don’t meet very often and lately there have been legislative changes that have required quick action to the forms. The supreme court still values the rules committees’ expertise and input on the development of forms and wants that to continue to be part of the forms process.

- 4) **Post-Termination Rule.** The Chair briefly summarized the recommendation for changes to this rule outlined in the memo. A committee member suggested that the phrase “Counsel for Youth’s

position statement” may be misleading because it’s the youth’s position that Counsel for Youth should be stating. Members agreed that the current wording is more reflective of a GAL role than counsel role. The committee consulted the phrasing of the statute and reached agreement to say “statements of a youth’s position” instead.

The Chair gave a brief status report on the Drafting Committee’s progress. The subcommittee is in the final stretch addressing things like putting the rules in order and numbering them. There are still several more wrap-up steps to take, but the Chair believes that the draft rule set may be ready for review at the August meeting. If the draft set is ready, then we will try to get it to the members as early as possible to allow for thorough review.

B. Judicial’s New Website

J.J. Wallace informed members that Judicial will launch a new website on June 11th and the old www.courts.state.co.us will be discontinued. The new website’s URL will be <http://www.coloradjudicial.gov>, so everyone’s bookmarks will need to be updated. The new website has been updated to meet accessibility requirements and will look and navigate a little differently. There may be a few hiccups with the website’s launch, so please be patient, and if you need anything that is not working, feel free to email J.J. for assistance. Justice Gabriel also noted that, eventually, all emails will be switching over to coloradojudicial.gov, but a date for the switch has not yet been announced.

IV. Old Business

A. Requiring Ex Parte Emergency Removal Hearings to be on the Record. Z

Saroyan asked for this agenda item to be removed. After speaking with others, he believed the issues raised by this item can be addressed through best practices and through training.

B. New Legislation Subcommittee.

The Chair asked if anyone believed that new legislation required any changes to the rules. Anna Ulrich stated that she was revising the [Guided Reference in Dependency](#) and incorporating new legislation. Although there has been new legislation, she did not think there was any impact to the rules. Committee members reiterated that keeping the rules simple and not taking on every little thing helps us not have to make wholesale changes when legislative updates are made.

V. Adjourn

No committee member had any other business to bring to the attention of the committee. The meeting adjourned at around 10:20 AM. The next meeting is August 2.

Respectfully Submitted,

*J.J. Wallace
Staff Attorney, Colorado Supreme Court*

TO: JUVENILE RULES COMMITTEE
FROM: DRAFTING SUBCOMMITTEE
RE: Amendments to the C.R.J.P. 2 series
DATE: AUGUST 2, 2024

As part of the final review of the draft rules for D&N cases, the Drafting Subcommittee has been reviewing all the current Colorado Rules of Juvenile Procedure to consider whether any amendments are needed. The subcommittee recommends making a few changes.

C.R.J.P. 2

The Drafting Subcommittee recommends deleting a sentence from C.R.J.P. 2 directing that the rules “be construed to secure simplicity in procedure and fairness in administration” and replacing it with a sentence that directs the rules to “be liberally construed to achieve the purposes of the Children’s Code.”

There are a few reasons for this suggested change. C.R.J.P. 2 applies to all Children’s Code case types. The Drafting Subcommittee felt that “simplicity in procedure” does not accurately describe contemporary juvenile proceedings. *See, e.g.*, C.R.J.P. 3.3 (applying Crim. P. 16 to juvenile delinquency cases); C.R.J.P. 4.6 (prescribing disclosure and discovery practices for D&N cases). The subcommittee also believed that words like “simplicity” and “fairness” are abstract. The subcommittee thought that tying construction of the rules to the purposes of the Children’s Code would provide more concrete and more case type-specific guidance. *See, e.g.*, §§ 19-1-102 (legislative declaration for all of Title 19), 19-2.5-101 (legislative declaration for delinquency), 19-3-100.5 (legislative declaration for D&N), 19-4-126 (direction on application and construction of UPA), 19-4.5-102 (legislative declaration on Surrogacy Agreement Act), 19-5-100.2 (legislative declaration on relinquishment and adoption), 19-5.5-401 (application and construction for the Uniform Unregulated Child Custody Transfer Act), 19-7-101 (legislative declaration for youth in foster care), (C.R.S. 2023).

The subcommittee recommends amending C.R.J.P. 2 as follows:

Rule 2. Purpose and Construction

These rules are intended to provide for the just determination of juvenile proceedings. ~~They shall be construed to secure simplicity in procedure and fairness in administration.~~ These rules must be liberally construed to achieve the purposes of the Children’s Code.

C.R.J.P. 2.1

The Drafting Subcommittee also recommends a small change to C.R.J.P. 2.1 to conform to current practices and C.R.C.P. 121 § 1-1(1) (authorizing entry of an appearance by signing a pleading). The subcommittee discussed whether “pleading” in this context means the term of art referring to a complaint, answer, or reply to a counterclaim or whether it has a more general

meaning, i.e., a synonym for a filing. The subcommittee felt that it has a more general meaning in this context and considered substituting “filing” but ultimately decided not to depart from the word used in C.R.C.P. 121 § 1-1(1).

Rule 2.1. Attorney of Record

- (a) An attorney shall be deemed of record when the attorney appears personally before the court, files a written entry of appearance or signed pleading, or has been appointed by the court.
- (b) The clerk shall notify an attorney appointed by the court. An order of appointment shall appear in the file.

C.R.J.P. 2.2

The Drafting Subcommittee recommends amending the language of C.R.J.P. 2.2(b) to cross-reference the rules in the 4 series:

Rule 2.2. Summons--Content and Service

(a) Juvenile Delinquency Proceedings.

- (1) The summons served in juvenile delinquency proceedings shall contain the notifications required by § 19-2-514, C.R.S. The summons and petition shall be served upon the juvenile in the manner provided in § 19-2-514, C.R.S.
- (2) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.
- (3) If a juvenile is issued a promise to appear pursuant to § 19-2-507(5), C.R.S., the promise to appear shall contain the notifications required by § 19-2-507(5), C.R.S.

(b) Dependency and Neglect Proceedings.

(1) The content and service of the summons in dependency and neglect proceedings must be as set forth in C.R.J.P. 4.5.

(2) Subsequent pleadings and notice must be served as provided in C.R.J.P. 4.35.

~~(1) The summons served in dependency and neglect proceedings shall contain the notifications required by § 19-3-503, C.R.S. The summons and petition shall be served upon respondent(s) in the manner provided in § 19-3-503(7) and (8), C.R.S.~~

~~(2) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.~~

(c) Relinquishment Proceedings.

- (1) The summons served in relinquishment proceedings shall contain the notifications required by § 19-5-105(5), C.R.S.
- (2) The summons and petition shall be served upon the non-relinquishing parent as follows:
 - A. As ordered by the court; or
 - B. In the same manner as a summons in a civil action; or
 - C. By mailing it to the respondent ('s/s') last known address, not less than 14 days prior to the time the respondent(s) is/are required to appear, by registered mail return receipt requested or

certified mail return receipt requested. Service by mail shall be complete upon return of the receipt signed by the respondent(s) or signed on behalf of the respondent(s) by one authorized by law.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g).

(4) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.

(d) Truancy Proceedings.

(1) The summons served in truancy proceedings shall comply with the provisions of C.R.C.P. 4(c). If the summons is combined with the notice required by § 22-33-108(5)(c), C.R.S., it shall also comply with the provisions of that section. In any jurisdiction in which juvenile detention may be used as a sanction after a finding of a violation of a valid court order, the summons shall inform the juvenile served of his or her right to a hearing and to due process as guaranteed by the United States Constitution prior to the entry of a valid court order.

(2) The summons and petition shall be served upon the respondent(s) as required pursuant to C.R.C.P. 4.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g).

(4) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Civil Procedure, subsequent pleadings and notice may be served by regular mail.

(e) Uniform Parentage Act Proceedings.

(1) The petition and summons served in Uniform Parentage Act proceedings shall comply with all requirements of Title 19, Article 4 of the Colorado Revised Statutes.

(2) The petition and summons, filed by one party, shall be personally served upon all other parties in accordance with § 19-4-105.5, C.R.S., or § 19-4-109(2), C.R.S., or the Colorado Rules of Civil Procedure.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g). Affidavits in support of motions for service by publication shall include a detailed statement of the specific efforts made to locate an absent parent.

(4) The summons issued upon commencement of a proceeding under Article 4 shall include the specified advisements and notice requirements of § 19-4-105.5(5), C.R.S.

(5) If the child support enforcement unit is initiating a proceeding under the Uniform Parentage Act, a delegate shall serve the petition and notice of financial responsibility in the manner identified in § 26-13.5-104, C.R.S.

(f) Adoption Proceedings.

(1) In adoption proceedings where either parent's parental rights have not been terminated or relinquished, that parent must be personally served with a copy of the petition for adoption.

(2) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g). Affidavits in support of motions for service by publication shall include a detailed statement of the specific efforts made to locate an absent parent.

(3) If the motion for service through publication is granted, the court shall order service by one publication of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than 35 days after service of the notice is complete.

(4) If the subject child in the adoption proceeding is an enrolled member of a federally recognized American Indian Nation, the petition for adoption must be sent to the parent or Indian custodian of the Indian child and to the Indian child's tribe by registered mail, return receipt requested, pursuant to § 19-1-126, C.R.S., and § 19-5-208, C.R.S., and proof shall be filed with the court. Postal receipts, or copies thereof, shall be attached to the petition for adoption when it is filed with the court or filed within 10 days after the filing of the petition, as specified in § 19-1-126(1)(c), C.R.S.

(5) Service of petition and notice requirements do not apply to validation of a foreign adoption decree proceedings.

(6) A petition for adult adoption shall be filed in accordance with § 19-5-208, C.R.S. The petition and summons shall be served on the identified adult adoptee by the petitioner.

(g) Support Proceedings under the Children's Code.

(1) Upon filing of the petition for support, the clerk of court, petitioner, or child support enforcement unit shall issue a summons stating the hearing date and the substance of the petition. A copy of the petition may be attached to the summons in lieu of stating the substance of the petition in the summons.

(2) Service of the summons shall be by personal service pursuant to C.R.C.P. 4(e). If the obligor is a nonresident of this state, the summons and petition may be served by sending the copies by certified mail with proof of actual receipt by the individual.

(3) The hearing to establish support shall occur at least 10 days after service is completed, or any later date the court orders.

(h) Administrative Procedure for Establishing Child Support by the Child Support Enforcement Unit.

(1) The child support enforcement unit shall issue a notice of financial responsibility to an obligor who owes child support.

(2) The child support enforcement unit shall serve the notice of financial responsibility on the obligor not less than 10 days prior to the date stated in the notice for the negotiation conference. Service can be accomplished in accordance with the Colorado Rules of Civil Procedure, by an employee appointed by the child support enforcement unit to serve process, or by certified mail, return receipt requested, signed by the obligor only. The receipt will be prima facie evidence of service.

(3) If process is served through the administrative process, there will be no additional service necessary if the case is referred to court for further review.