

**Colorado Supreme Court Rules of Juvenile Procedure Committee  
Minutes of May 4th, 2018 Meeting**

**I. Call to Order**

The Rules of Juvenile Procedure Committee came to order around 9:00 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 Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Jenny Bender		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhworth	X	
Judge David Furman		X
Ruchi Kapoor	X	
Andi Truett for Shana Kloek	X	
Wendy Lewis		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	
Chief Judge Jeffrey Wilson	X	
<b>Non-voting Participants</b>		
Justice Richard Gabriel, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

**Attachments & Handouts**

- (1) Minutes from 4/6/18 Meeting
- (2) Proposed Permanency Planning Rule & Notice
- (3) Draft GRID updates from Sheri Danz on children's rights; parents' rights; and permanency hearing

## II. Chair's Report

- A. The minutes were approved without amendment or objection.

## III. Old Business

### A. Permanency Planning Proposal

(1) Form notice: co-chair Colene Robinson thanked Sheri Danz for sending the GRID updates on legal rights, which helped identify many rights.

- a) In reviewing those lists, she believed that the child's right to have a person of his or her choice at the hearing should be included on the form notice and the committee agreed.
- b) Prof. Robinson also asked for feedback on whether the language of § 19-1-107(4) (Re the child's right to cross-examination concerning a written report). The consensus of the committee was not to include that on the notice. The committee did not want to broaden rights and, in light of the statute's language focusing on "determining the proper disposition of a child," the committee felt it best not to identify that as right on the notice of the permanency hearing.
- c) In discussing the cross-examination right, the committee held a larger discussion on whether to be very specific about rights or to be general. Committee members were divided. Some committee members felt specifying rights was a substantive action and not appropriate for a procedural rule. Other members felt that when advising people, you must be specific, and therefore favored identifying specific rights. Given the division among the committee, the committee decided to send the notice back to the subcommittee.
- d) The committee also made a structural suggestion to move the child's rights to the bottom.
- e) The committee also suggested taking out the reference to a continuance.

(2) Paragraph (c):

- a) The committee agreed to remove the reference to the burden of persuasion in the paragraph. The committee felt that the permanency statute puts the burden on the court to drive the decision-making for the permanency plan. It was pointed out that adopting a permanency plan is rarely an issue contested by the parties: if a respondent contests, usually the issue is resolved by adding concurrent planning. If the court is uncomfortable with the petitioner's recommended plan of return home, the court can show cause the petitioner. This illustrates that it is the court who is ultimately responsible for permanency planning.
- b) On this point, the committee also felt that the rule was not required to specify whether a party has a right to a contested hearing or not. The committee suggested refocusing the rule to highlight the court's obligations. Stated another way, the purpose of the hearing is for the court to have enough information to make the required findings.

- c) The committee pointed out that the reference to “30 days” does not conform to the rule of 7. The use of “30 days” was derived from the EPP statute. The committee recommends conforming to the rule of 7.
- d) The committee also thought making a reference to findings that the permanency statute requires the court to make would be helpful.

(3) Paragraph (d) and (e):

- a) The committee agreed to delete paragraphs (d) Modification of Permanency Plan and (e) Review of the Permanency Plan.
- b) The committee felt the purpose of the hearing is for the court to receive enough information to make the findings required by the statute and reiterates its suggestion that the rule focus on the court’s obligations.

(4) Original paragraph (f) (n/k/a paragraph (d)): The committee believed that this part of the rule would be incredibly helpful and praised the subcommittee for including it.

- a) The committee recommended restructuring the paragraph into (1) age appropriate consultation mechanisms and (2) how the consultation is memorialized.
- b) There was a brief discussion about whether the court’s consultation with the child must be under oath, and the committee decided not to mention an oath because there is no clear answer to that question.

(5) Original paragraph (g) (n/k/a (f)): The committee suggested including that Court must ask child about his opinion on his or her desired permanency outcome, pursuant to 42 U.S.C. 675a(a)(2)(A).

(6) The committee agreed to send back the rule to the subcommittee to consider the committee’s feedback and to revise the draft.

**IV. New Business**

- (1) The next meeting will focus on wrapping up permanency and then jumping to pre-adjudication and/or termination.

The Committee adjourned at 10:38 AM.

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