

**MINUTES OF THE
JUDICIAL RULES REVIEW COMMITTEE**
May 2, 2000 - 10:00 a.m. - Room 414, State Capitol

Members Present:

Rep. Greg J. Curtis, Chair
Rep. David L. Gladwell

Members Absent:

Sen. Robert F. Montgomery, Chair
Sen. Scott N. Howell
Sen. L. Steven Poulton
Rep. Perry L. Buckner

Staff Present:

Mr. Jerry D. Howe,
Research Analyst
Ms. Susan Creager Allred,
Associate General Counsel
Ms. Audrey Wendel,
Legislative Secretary

Note: A list of others present and a copy of materials distributed are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Although a quorum was not present, Rep. Curtis called the meeting to order at 10:10 a.m.

2. Report on Supreme Court Advisory Committees and Discussion of Proposed Modifications -

- *Rules of Appellate Procedure*
 - **Rule 44, Transfer of improperly pursued appeals** - Rep. Curtis referred to lines 41-46, and asked if situations happen very often in which appeals from interlocutory orders are pursued in an appellate court that do not have jurisdiction in that particular case. Mr. Shea explained that this rule was created when the Fourth Court of Appeals came online and wasn't as well versed on what the jurisdiction of the two appellate courts were, so rather than dismissing it and making them re-file, the interlocutory position was adopted.
- *Juvenile Procedure*
 - **Rule 16, Transfer of delinquency case for preliminary inquiry** - Ms. Gentles clarified that this was designed to make the rule reflect what is in statute.
 - **Rule 18, Summons; service of process; notice** - Mr. Howe asked for a clarification and justification of lines 28-29. Ms. Gentles acknowledged that the rule was drafted incorrectly and she will see that it is corrected. Rep. Curtis pointed out that lines 24-29 may not fit correctly into the current context. Ms. Gentles said that she'll see that it is either moved to another section or removed if it is not needed.
 - **Rule 19, Responsive pleadings and motions** - Mr. Howe referred to line 32 of the

rule, which says that the court may be allowed to grant a motion for an expedited hearing on an ex parte basis. He questioned whether that determination is within courts jurisdiction. Ms. Gentles acknowledged that the intent of the rule is not readily understood and will be clarified.

Mr. Howe referred to lines 35-36, which says that if a court grants the motion for an expedited hearing, the hearing shall be set within ten days of the order. He pointed out that this may not be a proper time frame in which these hearings be conducted. Ms. Gentles suggested that the rule could be revised to set a minimum days notice for these hearings.

- **Rule 20, Discovery generally** - Mr. Howe referred to line 52-53 and questioned what the term "these rules" referred to. Ms. Gentles explained that the rule refers to Juvenile Court Rules. She agreed to clarify that "these rules" refer to "Juvenile Court Rules."
- **Rule 20A Discovery in non-delinquency proceedings** - Ms. Gentles explained that this rule refers to what discovery is going to look like in juvenile cases. Ms. Allred referred to line 34 and suggested that the phrase: "statutorily imposed," be modified to read "statutorily imposed deadlines for compliance."
- *Code of Judicial Administration*
- **Rule 1-205 Standing and ad hoc committees; Rule 4-908, Committee on Children and Family Law** - Mr. Howe referred to page 33 lines 4-11 and asked for a clarification on the origination of the Committee on Children and Family Law. Mr. Shea referred to Rule 4-908, and explained how that committee originated through the Judicial Council.

Rep. Curtis suggested that the rule be modified to allow the public to attend these committee meetings. Rep. Curtis suggested that the "Open and Public Meetings Act" be reviewed so that the committee's procedures comply with that statute. Mr. Howe referred to page 47 line 8 and asked for a clarification on the rules intent language. Ms. Allred suggested the line be modified to address the judiciary's role in providing these services; as opposed to the broader issue of political debates and policy issues. Mr. Shea explained that they were concerned with unintentionally excluding specific groups, so they erred on the broader definition rather than the more definitive.

3. Adjourn

In the absence of a quorum, Chair Curtis ruled the meeting adjourned at 12:30 p.m.