

CODE OF EVIDENCE OVERSIGHT COMMITTEE MEETING

November 5, 2008

2:00 p.m.

Attorney Conference Room
231 Capitol Avenue, Hartford, Conn.

AGENDA

1. Minutes of Meeting - May 14, 2007
2. *State v. DeJesus*, 288 Conn. 418 (2008)
 - c. What is the role of the Committee in light of the decision?
 - c. What action should be taken, if any, with respect to Section 4-5, "Evidence of Other Crimes, Wrongs or Acts to Prove Character; Admissible for Other Purposes; Specific Instances of Conduct"?
 - i. Amend section
 - Proposal
 - ii. Amend Commentary
 - Proposaal
 - iii. Take other action
 - FRE 413, Evidence of Similar Crimes in Sexual Assault Cases
 - FRE 414, Evidence of Similar Crimes in Child Molestation Cases
 - FRE 415, Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation
 - iv. Take no action.
3. Section 8 -10. "Hearsay Exception: Tender Years"
 - c. Inconsistency between section 8-10 and C.G.S. § 54-86l
 - c. January 3, 2008 letter from Attorney Susann E. Gill
4. Gap-filling
 - c. Have there been other recent Supreme Court opinions that warrant amending the Code?
5. Section 6-11. Prior Consistent Statements of Witnesses; Constancy of Accusation by Sexual Assault Victim
 - a. Proposal: If defendant admits/stipulates that victim reported assault, do not need witnesses to that effect.
 - i. *State v. Troupe*, 237 Conn. 284, 294(1996) (en banc).
 - ii. *State v. Samuels*, 75 Conn. App. 671, 680 (2003).
 - iii. *State v. Samuels*, 273 Conn. 541, 556 (2005).

iv. *State v. Smith*, 275 Conn. 205 (2005)

v. FRE 803 (2)

b. Proposal last under consideration:

(a) General rule. Except as provided in this section, the credibility of a witness may not be supported by evidence of a prior consistent statement made by the witness.

(b) Prior consistent statement of a witness. If the credibility of a witness is impeached by (1) a prior inconsistent statement of the witness, (2) a suggestion of bias, interest or improper motive that was not present at the time the witness made the prior consistent statement, or (3) a suggestion of recent contrivance, evidence of a prior consistent statement made by the witness is admissible, in the discretion of the court, to rebut the impeachment.

~~(c) Constancy of accusation by a sexual assault victim. A person to whom a sexual assault victim has reported the alleged assault may testify that the allegation was made and when it was made, provided the victim has testified to the facts of the alleged assault and to the identity of the person or persons to whom the assault was reported. Any testimony by the witness about details of the assault shall be limited to those details necessary to associate the victim's allegations with the pending charge. The testimony of the witness is admissible only to corroborate the victim's testimony and not for substantive purposes.~~

c. January 3, 2008 letter from Susann E. Gill

5. Such matters as may come before the Committee.

6. Next meeting.