

Minutes of the Meeting
Rules Committee of the Superior Court
Monday, January 22, 2024

On January 22, 2024, the Rules Committee met using Microsoft Teams from 2:00 p.m. to 3:13 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. BARRY F. ARMATA
HON. ERNEST GREEN
HON. JENNIFER MACIEROWSKI
HON. STEPHANIE A. MCLAUGHLIN
HON. W. GLEN PIERSON
HON. SHEILA M. PRATS
HON. ELIZABETH J. STEWART

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, James T. O'Connor, Assistant Counsel to the Rules Committee, and Lori Petruzzelli, Assistant Counsel to the Rules Committee. Judge Courtney M. Chaplin was absent.

1. The Committee approved the minutes of the meeting held on December 18, 2023, with no revisions.

2. The Committee considered a proposal from Judge Michael Albis, former Chief Administrative Judge, Family Matters, and revised by Judge Leo Diana, Chief Administrative Judge, Family Matters, to amend various Practice Book Sections regarding the Pathways process in Family Matters (RC ID # 2023-008).

The Committee tabled this proposal to its February meeting, as requested by Judge Diana.

3. The Committee considered a proposal from Attorney Donna M. Lattarulo to amend the Practice Book to require all attorneys and self-represented parties subject to e-filing requirements to accept service of documents electronically (RC ID # 2023-016).

After discussion, the Committee asked Counsel to work with Judge Barbara Bellis, Chief Administrative Judge, Civil Matters, on language for the Committee to consider and vote on that requires attorneys and not self-represented parties to accept service of documents electronically.

4. The Committee considered a proposal from Attorney Jonathan E. Von Kohorn to amend Practice Book Section 25-5 (b) (1) concerning automatic orders upon service of complaint or application to clarify that provision with respect to premarital and postnuptial agreements (RC ID # 2023-017).

After discussion, the Committee voted to take no further action on this matter and tabled the proposal.

5. The Committee considered a proposal from Attorney Daniel Healy for supervision of civil jury selection in every case to curb abuse and delay during voir dire in Connecticut (RC ID # 2023-018).

After discussion, the Committee voted to take no further action on this matter and tabled the proposal.

6. The Committee considered a proposal from Judge Donna Wilkerson Brilliant to amend Practice Book Section 30a-5 to include the requirement that a current predispositional study (PDS) be provided to the court for a child being placed on probation with residential placement in a secure or staff secure facility, in alignment with the requirements of C.G.S. 46b-140 (g) (RC ID # 2023-019).

Judge Tammy T. Nguyen-O'Dowd, Chief Administrative Judge, Juvenile Matters, Attorney Renee Cimino of the Office of the Chief Public Defender, and Attorney Vincent Duva of the Division of Criminal Justice were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its February meeting and asked Judge Nguyen-O'Dowd to work with Attorneys Cimino and Duva on a final proposal for the Committee to consider and vote on.

7. The Committee considered a proposal from Judge Donna Wilkerson Brilliant to amend Practice Book Section 30a-8 to include the service memorandum in the list of materials in the court records that must be authorized by the court before a party may copy or reproduce it (RC ID # 2023-020).

Judge Tammy T. Nguyen-O'Dowd, Chief Administrative Judge, Juvenile Matters, Attorney Renee Cimino of the Office of the Chief Public Defender, and Attorney Vincent Duva of the Division of Criminal Justice were present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Practice Book Section 30a-8, as set forth in Appendix A, attached to these minutes.

8. The Committee considered a proposal from Judge Donna Wilkerson Brilliant to amend Practice Book Section 31a-14 to explicitly include the requirement that an assessment be conducted by a clinical coordinator for a juvenile with a delinquency charge prior to the court ordering a thirty-day Solnit Center hospitalization and evaluation (RC ID # 2023-021).

Judge Tammy T. Nguyen-O'Dowd, Chief Administrative Judge, Juvenile Matters, Attorney Renee Cimino of the Office of the Chief Public Defender, and Attorney Vincent Duva of the Division of Criminal Justice were present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Practice Book Section 31a-14, as set forth in Appendix B, attached to these minutes.

9. The Committee considered a proposal from Judge Donna Wilkerson Brilliant to amend Practice Book Section 26-1 to include the definitions of a clinical coordinator and service memorandum as they are referred to in the proposed revised Practice Book Sections 31a-14, 30a-5, and 30a-8 (RC ID # 2023-022).

Judge Tammy T. Nguyen-O'Dowd, Chief Administrative Judge, Juvenile Matters, Attorney Renee Cimino of the Office of the Chief Public Defender, and Attorney Vincent Duva of the Division of Criminal Justice were present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Practice Book Section 26-1, as set forth in Appendix C, attached to these minutes.

10. The Committee considered a proposal from Attorney Dina S. Fisher to adopt a new rule which would require the state to provide detailed pretrial notice of an intent to present prior uncharged sexual misconduct, bringing Connecticut into alignment with the federal rules and a number of state jurisdictions that allow such evidence (RC ID # 2023-023).

Judge David Gold, Chief Administrative Judge, Criminal Matters, Attorney Dina S. Fisher, and Deputy Chief State's Attorney Kevin Lawlor were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its February meeting and asked Attorney Lawlor to work with the Chief Public Defender's office and the Connecticut Criminal Defense Lawyers Association (CCDLA) on proposed language for the Committee to consider and vote on.

11. The Committee considered a proposal from Mr. Robert Berriault to amend Practice Book Section 2-8 (5) concerning the bar application fee (RC ID # 2023-024).

Attorney Kathleen Harrington was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its February meeting and asked Attorney Harrington to discuss the issue with Mr. Berriault and report back to the Committee at the February meeting.

12. The Committee considered a proposal from Attorney James Sullivan regarding the Principles of Professionalism (RC ID # 2024-001).

After discussion, the Committee tabled this proposal to its February meeting and referred it for comment to the Connecticut Bar Association's (CBA) Professional Discipline Section and its Professionalism Committee, the Chief Disciplinary Counsel's office, and the Statewide Bar Counsel.

Respectfully submitted,



Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A

(012224)

Sec. 30a-8. Records

(a) Except as otherwise provided by statute, all records maintained in juvenile matters brought before the judicial authority, either current or closed, including transcripts of hearings, shall be kept confidential.

(b) Except as otherwise provided by statute, no material contained in the court records, including the predispositional study, service memorandum, medical or clinical reports, school reports, police reports, or the reports of social agencies, may be copied or otherwise reproduced in written form in whole or in part by the parties without the express consent of the judicial authority.

(c) Each counsel and self-represented party in a delinquency matter shall have access to and be entitled to copies, at his or her expense, of the entire court record, including transcripts of all proceedings, without express consent of the judicial authority.

APPENDIX B

(012224)

Sec. 31a-14. Physical and Mental Examinations

(a) No physical and/or mental examination or examinations by any physician, psychologist, psychiatrist, [or] social worker or clinical coordinator shall be ordered by the judicial authority of any child denying delinquent behavior prior to the adjudication, except (1) with the agreement of the child's or youth's parent or guardian and attorney, (2) when the child or youth has executed a written statement of responsibility, (3) when the judicial authority finds that there is a question of the child's or youth's competence to understand the nature of the proceedings or to participate in the defense, or a question of the child or youth having been mentally capable of unlawful intent at the time of the commission of the alleged act, or (4) where the child or youth has been detained and as an incident of detention is administered a physical examination to establish the existence of any contagious or infectious condition.

(b) Any information concerning a child or youth that is obtained during any mental health screening or assessment of such child or youth shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing such screening or assessment. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or youth, or provision of services to the child or youth, or pursuant to General Statutes §§ 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

(c) Upon a showing that the mental health of a child or youth is at issue, either prior to adjudication for the reasons set forth in subsection (a) herein or subsequent thereto as a determinate of disposition, the judicial authority may order a child's or youth's placement for a period not to exceed thirty days in a hospital or other institution empowered by law to treat mentally ill children for study and a report on the child's or youth's mental condition. No order for the child's or youth's placement shall be made under this subsection until a written assessment or evaluation for the need for hospitalization and evaluation has been completed by a clinical coordinator and provided to the court and parties.

APPENDIX C

(012224)

Sec. 26-1. Definitions Applicable to Proceedings on Juvenile Matters

In these definitions and in the rules of practice and procedure on juvenile matters, the singular shall include the plural and the plural, the singular where appropriate.

(a) The definitions of the terms “child,” “abused,” “delinquent,” “delinquent act,” “neglected,” “uncared for,” “alcohol-dependent,” “drug-dependent,” “serious juvenile offense,” “serious juvenile offender,” “serious juvenile repeat offender,” “predispositional study,” and “risk and needs assessment” shall be as set forth in General Statutes § 46b-120. The definition of “victim” shall be as set forth in General Statutes § 46b-122.

(b) “Clinical Coordinator” means a licensed mental health professional with specialized forensic training and employed by the Court Support Services Division of the Judicial Branch to provide consultation and assessment in delinquency matters related to the behavioral health and mental health of the child.

(c) “Clinical Consultation” means the process by which the Clinical Coordinator provides guidance regarding mental health treatment or evaluation needs.

~~[(b)]~~ (d) “Commitment” means an order of the judicial authority whereby custody and/or guardianship of a child are transferred to the Commissioner of the Department of Children and Families.

~~[(c)]~~ (e) “Complaint” means a written allegation or statement presented to the judicial authority that a child’s conduct as a delinquent brings the child within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

(f) “Forensic Clinical Assessment” means a court ordered evaluation that is performed as part of the legal decision-making process to assist the Court and others in decisions regarding interventions by taking into account the child’s or youth’s mental conditions, ability, behaviors, and relevant risk factors.

~~[(d)]~~ (g) “Guardian” means a person who has a judicially created relationship with a child, which is intended to be permanent and self-sustaining, as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person and decision making.

~~[(e)]~~ (h) “Hearing” means an activity of the court on the record in the presence of a judicial authority and shall include (1) “Adjudicatory hearing”: A court hearing to determine the validity of the facts alleged in a petition or information to establish thereby the judicial authority’s jurisdiction to decide the matter which is the subject of the petition or information; (2) “Contested hearing on an order of temporary custody” means a hearing on an ex parte order of temporary custody or an order to appear which is held not later than ten days from the day of a preliminary hearing on such orders. Contested hearings shall be held on consecutive days except for compelling circumstances or at the request of the respondent; (3) “Dispositive hearing”: The judicial authority’s jurisdiction to adjudicate the matter which is the subject of the petition or information having been established, a court hearing in which the judicial authority, after considering

the social study or predispositional study and the total circumstances of the child, orders whatever action is in the best interests of the child or family and, where applicable, the community. In the discretion of the judicial authority, evidence concerning adjudication and disposition may be presented in a single hearing; (4) "Preliminary hearing" means a hearing on an ex parte order of temporary custody or an order to appear or the first hearing on a petition alleging that a child is uncared for, abused, or neglected. A preliminary hearing on any ex parte custody order or order to appear shall be held not later than ten days from the issuance of the order; (5) "Plea hearing" is a hearing at which (A) a parent or guardian who is a named respondent in a neglect, uncared for or dependency petition, upon being advised of his or her rights, admits, denies, or pleads nolo contendere to allegations contained in the petition; or (B) a child who is a named respondent in a delinquency petition or information enters a plea of not guilty, guilty, or nolo contendere upon being advised of the charges against him or her contained in the information or petition; (6) "Probation status review hearing" means a hearing requested, ex parte, by a probation officer regardless of whether a new offense or violation has been filed. The court may grant the ex parte request, in the best interest of the child or the public, and convene a hearing on the request within seven days.

[(f)] (i) "Indian child" means an unmarried person under age eighteen who is either a member of a federally recognized Indian tribe or is eligible for membership in a federally recognized Indian tribe and is the biological child of a member of a federally recognized Indian tribe, and is involved in custody proceedings, excluding delinquency proceedings.

~~[(g)]~~ (j) “Juvenile residential center” means a hardware-secured residential facility operated by the court support services division of the Judicial Branch that includes direct staff supervision, surveillance enhancements and physical barriers that allow for close supervision and controlled movement in a treatment setting for preadjudicated juveniles and juveniles adjudicated as delinquent.

~~[(h)]~~ (k) “Parties” includes: (1) The child who is the subject of a proceeding and those additional persons as defined herein; (2) “Legal party”: Any person, including a parent, whose legal relationship to the matter pending before the judicial authority is of such a nature and kind as to mandate the receipt of proper legal notice as a condition precedent to the establishment of the judicial authority’s jurisdiction to adjudicate the matter pending before it; and (3) “Intervening party”: Any person who is permitted to intervene in accordance with Section 35a-4.

~~[(i)]~~ (l) “Permanency plan” means a plan developed by the Commissioner of the Department of Children and Families for the permanent placement of a child in the commissioner’s care. Permanency plans shall be reviewed by the judicial authority as prescribed in General Statutes §§ 17a-110 (b), 17a-111b (c), 46b-129 (k), and 46b-149 (h).

~~[(j)]~~ (m) “Petition” means a formal pleading, executed under oath, alleging that the respondent is within the judicial authority’s jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition for erasure of record, such petitions invoke a judicial hearing and shall be filed by any one of the parties authorized to do so by statute.

[(k)] (n) “Information” means a formal pleading filed by a prosecutor alleging that a child in a delinquency matter is within the judicial authority’s jurisdiction.

[(l)] (o) “Probation supervision” means a legal status whereby a juvenile who has been adjudicated delinquent is placed by the court under the supervision of juvenile probation for a specified period of time and upon such terms as the court determines.

[(m)] (p) “Probation supervision with residential placement” means a legal status whereby a juvenile who has been adjudicated delinquent is placed by the court under the supervision of juvenile probation for a specified period of time, upon such terms as the court determines, that include a period of placement in a secure or staff-secure residential treatment facility, as ordered by the court, and a period of supervision in the community.

[(n)] (q) “Respondent” means a person who is alleged to be a delinquent, or a parent or a guardian of a child who is the subject of a petition alleging that the child is uncared for, abused, neglected, or requesting termination of parental rights.

[(o)] (r) “Secure-residential facility” means a hardware-secured residential facility that includes direct staff supervision, surveillance enhancements and physical barriers that allow for close supervision and controlled movement in a treatment setting.

(s) “Service Memorandum” means a written report completed by a clinical coordinator in response to a court order for a forensic clinical assessment.

[(p)] (t) “Specific steps” means those judicially determined steps the parent or guardian and the Commissioner of the Department of Children and Families should take in order for the parent or guardian to retain or regain custody of a child.

~~[(q)]~~ (u) “Staff-secure facility” means a residential facility: (1) that does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

~~[(r)]~~ (v) “Staff-secure residential facility” means a residential facility that provides residential treatment for children in a structured setting where the children are monitored by staff.

~~[(s)]~~ (w) “Supervision” includes: (1) “Nonjudicial supervision”: A legal status without the filing of a petition or a court conviction or adjudication but following the child’s admission to a complaint wherein a probation officer exercises supervision over the child with the consent of the child and the parent; (2) “Protective supervision”: A disposition following adjudication in neglected, abused or uncared for cases created by an order of the judicial authority requesting a supervising agency other than the court to assume the responsibility of furthering the welfare of the family and best interests of the child when the child’s place of abode remains with the parent or any suitable or worthy person, or when the judicial authority vests custody or guardianship in another suitable and worthy person, subject to the continuing jurisdiction of the court; and (3) “Judicial supervision”: A legal status similar to probation for a child subject to supervision pursuant to an order of suspended proceedings under General Statutes § 46b-133b or § 46b-133e.

[(t)] (x) "Take into Custody Order" means an order by a judicial authority that a child be taken into custody and immediately turned over to a Juvenile Residential Center Superintendent where probable cause has been found that the child has committed a delinquent act, there is no less restrictive alternative available, and the child meets the criteria set forth in Section 31a-13.