

Minutes of the Meeting  
Rules Committee of the Superior Court  
Monday, March 13, 2023

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On March 13, 2023, the Rules Committee met using Microsoft Teams from 2:01 p.m. to 3:37 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR  
HON. COURTNEY M. CHAPLIN  
HON. JOHN B. FARLEY  
HON. STEPHANIE A. MCLAUGHLIN  
HON. TAMMY T. NGUYEN-O'DOWD  
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 Alex V. Hernandez was absent.

1. The Committee approved the minutes of the meeting held on February 6, 2023, with no revisions.

2. The Committee considered a proposal from Legal Services Associations to amend Practice Book Section 7-10 and 7-11, and to recommend for adoption new Section 7-11A regarding retention and destruction of summary process records (RC ID # 2021-023).

Attorneys Rafie Podolsky and Giovanna Shay were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal until such time as legislative consideration of the subject matter is concluded.

3. The Committee considered a proposal from the Connecticut Sentencing Commission to amend Practice Book Section 38-8 to expand the cash bail option (RC ID # 2023-001).

Ralph Dagostine, Deputy Director, Criminal Matters, Court Operations was 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 38-8, as set forth in Appendix A, attached to these minutes.

4. The Committee considered a proposal from the Connecticut Bar Association to amend Practice Book Section 2-27A to allow attorneys to earn up to four hours per year of MCLE credit by judging mock trials or moot courts at the undergraduate, high school, or middle school levels, in addition to those at the law school level (RC ID # 2023-002).

Attorney Fred Ury, Co-Chair of the Commission on Minimum Continuing Legal Education, was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its May meeting at Attorney Ury's request.

5. The Committee considered a proposal from Judge David Gold, Chief Administrative Judge, Criminal Matters, to amend Practice Book Sections 38-3, 38-4, and 43-21 to make those rules consistent with correlating statutes that were recently amended (RC ID # 2023-003).

Attorney Katharine Casaubon, Counsel, Legal Services for the Judicial Branch, was present and addressed the Committee on this matter on behalf of Judge Gold.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Practice Book Sections 38-3, 38-4, and 43-21, as set forth in Appendix B, attached to these minutes.

6. The Committee considered a proposal to correct the citation in new Practice Book Section 5-12 (RC ID # 2023-004).

After discussion, the Committee agreed that the subject correction was technical and directed Counsel to facilitate the correction.

7. The Committee received an update from Counsel concerning the Practice Book rules that remain suspended or otherwise modified, affected or in effect based on declared public health and civil preparedness emergencies (RC ID # 2023-005).

After discussion, the Committee took no action on this matter.

8. The Committee considered a proposal from Attorney Zenas Zelotes to create hybrid files, upon request, in cases filed on or before 2014, in which the older part would remain on paper and new entries digital (RC ID # 2023-006).

Attorney Zenas Zelotes was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and directed Counsel to summarize the proposal and comments from the Committee's discussion and refer them to Court Operations, Chief Administrative Judges Albis and Bellis, the Connecticut Bar Association Family Section, and the American Academy of Matrimonial Lawyers.

9. The Committee considered a proposal from Attorney Zenas Zelotes to grant active members of the bar online access to family cases, via e-services, in case in which they do not have an appearance (RC ID # 2023-007).

Attorney Zenas Zelotes was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and directed Counsel to summarize the proposal and comments from the Committee's discussion and refer them to Court Operations, Chief Administrative Judges Albis and Bellis, the Connecticut Bar Association Family Section, and the American Academy of Matrimonial Lawyers.

10. The Committee considered a proposal from Attorney Zenas Zelotes to amend Practice Book Section 13-29 regarding place of depositions, to allow remote depositions (RC ID # 2023-009).

Attorney Zenas Zelotes was present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and directed Counsel to summarize the proposal and comments from the Committee's discussion and refer them to Court Operations, Chief Administrative Judges Albis and Bellis, the Connecticut Bar Association Family Section, and the American Academy of Matrimonial Lawyers.

11. The Committee considered a proposal from Judge Michael Albis to amend various Practice Book Sections regarding the Pathways process in Family Matters (RC ID # 2023-008).

Judge Albis, Chief Administrative Judge, Family Matters, Attorney Amy Calvo MacNamara, representing the Family Section of the Connecticut Bar Association, Judge Bozzuto, Chief Court Administrator, and Attorney Raphael Podolsky from Connecticut Legal Services, were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal to its May meeting to give all proponents and collaborators an opportunity to attend the meeting and address the Committee on this matter.

12. The Committee considered a proposal from Attorney Kevin DiAdamo to amend Chapter 21 of the Practice Book concerning receivers in light of the Uniform Commercial Real Estate Receivership Act (UCRERA) (RC ID # 2023-010).

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Chapter 21 of the Practice Book concerning receivers, as set forth in Appendix C, attached to these minutes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph J. Del Ciampo". The signature is written in a cursive, flowing style.

Joseph J. Del Ciampo  
Counsel to the Rules Committee

## APPENDIX A

(031323)

### Sec. 38-8. [Ten] Seven Percent Cash Bail

Unless otherwise ordered by the judicial authority, [10] 7 percent cash bail shall be automatically available for surety bonds not exceeding [20,000] 50,000. For surety bond amounts exceeding [20,000] 50,000, [10] 7 percent cash bail may be granted pursuant to an order of the judicial authority. This [10] 7 percent cash bail option applies to bonds set by the court as well as bonds set at the police department.

When [10] 7 percent cash bail is authorized either automatically or pursuant to court order, upon the depositing in cash, by the defendant or any other person in his or her behalf other than a paid surety, of [10] 7 percent of the surety bond set, the defendant shall thereupon be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the [10] 7 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.

## APPENDIX B

(031323)

### **Sec. 38-3. —Release by Bail Commissioner or Intake, Assessment, and Referral Specialist**

(a) Upon notification by a law enforcement officer that an arrested person has not posted bail, a bail commissioner or an intake, assessment, and referral specialist shall promptly conduct an interview and investigation and, based upon release criteria established by the Court Support Services Division, shall, except as provided in subsection (c) of this section, promptly order the release of the arrested person upon the first of the following conditions of release found sufficient to ensure his or her appearance in court:

(1) The arrested person's execution of a written promise to appear without special conditions;

(2) The arrested person's execution of a written promise to appear with any of the nonfinancial conditions specified in subsection (b) of this section;

(3) The arrested person's execution of a bond without surety in no greater amount than necessary;

(4) The arrested person's execution of a bond with surety in no greater amount than necessary.

If the arrested person is unable to meet the conditions of release ordered, the bail commissioner or intake, assessment, and referral specialist shall inform the court in a report prepared pursuant to subsection (d) of this section.

(b) In addition to or in conjunction with any of the conditions enumerated in subsection (a) of this section, the bail commissioner or intake, assessment, and referral specialist may impose nonfinancial conditions of release, which may require that the arrested person do any of the following:

(1) Remain under the supervision of a designated person or organization;

(2) Comply with specified restrictions on his or her travel, association, or place of abode;

(3) Not engage in specified activities, including the use or possession of a dangerous weapon, or the unlawful use or possession of an intoxicant, or a controlled substance;

(4) Not use classes of intoxicants or controlled substances, if the bail commissioner or intake, assessment and referral specialist makes a finding that use of such classes of intoxicants or controlled substances would pose a danger to the arrested person or to the public and includes individualized reasons supporting such finding, provided that such finding shall not consider any prior arrests or convictions for use or possession of cannabis;

(5) Avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense; or

[(5)] (6) Satisfy any other condition that is reasonably necessary to ensure his or her appearance in court.



Any of the conditions imposed under subsection (a) of this section and this subsection shall be effective until the appearance of such person in court.

(c) No person shall be released upon the execution of a written promise to appear or the posting of a bond without surety if the person is charged with a family violence crime and, in the commission of such crime, the person used or threatened the use of a firearm.

(d) The bail commissioner shall prepare for review by the judicial authority an interview record and a written report for each person interviewed. The written report shall contain the information obtained during the interview and verification process, the arrested person's prior criminal record, if possible, the determination or recommendation of the bail commissioner concerning terms and conditions of release, and, where applicable, a statement that the arrested person was unable to meet the conditions of release ordered by the bail commissioner or the intake, assessment, and referral specialist.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 54-63d, as amended by Public Acts, Spec. Sess., June, 2021, No. 21-1 §17, regarding limitations on a Bail Commissioner's authority to impose a condition of release prohibiting a defendant from using or possessing controlled substances or intoxicants.

**Sec. 38-4. —Release by Judicial Authority**

(a) Except as provided in subsection (c) of this section, when any defendant is presented before a judicial authority, such authority shall, in bailable offenses, promptly order the release of such defendant upon the first of the following conditions of release found sufficient to reasonably ensure the defendant's appearance in court:

(1) The defendant's execution of a written promise to appear without special conditions;

(2) The defendant's execution of a written promise to appear with nonfinancial conditions;

(3) The defendant's execution of a bond without surety in no greater amount than necessary;

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to 10 percent of the amount of the surety bond set, pursuant to Section 38-8;

(5) The defendant's execution of a bond with surety in no greater amount than necessary.

In no event shall the judicial authority prohibit a bond from being posted by surety.

(b) The judicial authority may, in determining what conditions of release will reasonably ensure the appearance of the defendant in court pursuant to subsection (a) of this section, consider the following factors:

- (1) The nature and circumstances of the offense;
- (2) The defendant's record of previous convictions;
- (3) The defendant's past record of appearance in court;
- (4) The defendant's family ties;
- (5) The defendant's employment record;
- (6) The defendant's financial resources, character, and mental condition;
- (7) The defendant's community ties[.]; and

(8) In the case of a violation of General Statutes § 53a-222a when the condition of release was issued for a family violence crime, as defined in General Statutes § 46b-38a, the heightened risk posed to victims of family violence by violations of conditions of release.

(c) When any defendant charged with a serious felony enumerated in General Statutes § 54-64a (b) (1) or a family violence crime, as defined in General Statutes § 46b-38a, is presented before a judicial authority, such authority shall, in bailable offenses, promptly order the release of such defendant upon the first of the following conditions of release found sufficient to reasonably ensure the defendant's appearance in court and that the safety of any other person will not be endangered:

- (1) The defendant's execution of a written promise to appear without special conditions;

(2) The defendant's execution of a written promise to appear with nonfinancial conditions;

(3) The defendant's execution of a bond without surety in no greater amount than necessary;

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to 10 percent of the amount of the surety bond set, pursuant to Section 38-8;

(5) The defendant's execution of a bond with surety in no greater amount than necessary.

In no event shall the judicial authority prohibit a bond from being posted by surety.

(d) The judicial authority may, in determining what conditions of release will reasonably ensure the appearance of the defendant in court and that the safety of any other person will not be endangered pursuant to subsection (c) of this section, consider the following factors:

(1) The nature and circumstances of the offense;

(2) The defendant's record of previous convictions;

(3) The defendant's past record of appearance in court after being admitted to bail;

(4) The defendant's familyties;

(5) The defendant's employment record;

(6) The defendant's financial resources, character, and mental condition;

(7) The defendant's community ties;

(8) The number and seriousness of the charges pending against the defendant;

(9) The weight of evidence against the defendant;

(10) The defendant's history of violence;

(11) Whether the defendant has previously been convicted of similar offenses while released on bond; **[and]**

(12) The likelihood based upon the expressed intention of the defendant that he or she will commit another crime while released **[.]; and**

**(13) the heightened risk posed to victims of family violence by violations of conditions of release and court orders of protection.**

When imposing conditions of release under subsection (c) of this section, the court shall state for the record any factors under subsection (d) of this section that it considered and the findings that it made as to the danger, if any, that the defendant might pose to the safety of any other person upon the defendant's release that caused the court to impose the specific conditions of release that it imposed.

(e) If the defendant is charged with no offense other than a misdemeanor, the court shall not impose financial conditions of release on such person unless:

(1) The defendant is charged with a family violence crime;

(2) The defendant requests such financial conditions; or

(3) The judicial authority makes a finding on the record that there is a likely

risk that:

(A) The defendant will fail to appear in court, as required;

(B) The defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror; or

(C) The defendant will engage in conduct that threatens the safety of himself or herself or another person.

In making such finding, the judicial authority may consider past criminal history, including any prior record of failing to appear as required in court that resulted in any conviction for Failure to Appear in the First Degree, in violation of General Statutes § 53a-172, or any conviction during the previous ten years for Failure to Appear in the Second Degree, in violation of General Statutes § 53a-172, and any other pending criminal cases.

(f) In addition to or in conjunction with any of the conditions enumerated in subsections (a) or (c) of this section, the judicial authority may, when it has reason to believe that the defendant is drug-dependent and where necessary, reasonable, and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such defendant.

(g) If the judicial authority determines that a nonfinancial condition of release should be imposed in addition to or in conjunction with any of the conditions enumerated in subsections (a) or (c) of this section, the judicial authority shall order the pretrial release of the defendant subject to the least restrictive condition or combination of conditions that the judicial authority determines will reasonably ensure the appearance of the defendant in court and, when the defendant is charged with a felony enumerated in General Statutes § 54-64a (b) (1) or a family violence crime, that the safety of any person will not be endangered, which conditions may include an order that he or she do one or more of the following:

- (1) Remain under the supervision of a designated person or organization;
- (2) Comply with specified restrictions on his or her travel, association, or place of abode;
- (3) Not engage in specified activities, including the use or possession of a dangerous weapon, an intoxicant, or a controlled substance;
- (4) Provide sureties of the peace pursuant to General Statutes § 54-56f under supervision of a designated bail commissioner or intake, assessment, and referral specialist;
- (5) Avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;
- (6) Maintain employment or, if unemployed, actively seek employment;
- (7) Maintain or commence an educational program;

(8) Be subject to electronic monitoring; or

(9) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant in court and that the safety of any other person will not be endangered.

The judicial authority shall state on the record its reasons for imposing any such nonfinancial condition.

(h) The judicial authority may require that the defendant subject to electronic monitoring pursuant to subsection (g) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the judicial authority finds that the defendant subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, it shall waive such costs.

(i) If any defendant is not released, the judicial authority shall order the defendant committed to the custody of the Commissioner of Correction until he or she is released or discharged in due course of law.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 54-64a, as amended by Public Acts 2021, No. 21-78, § 16, regarding the authority for the court, when determining appropriate conditions of release, to consider the risk a defendant poses to victims of family violence via violations of conditions of release.



**Sec. 43-21. [Reduction of Definite Sentence] Reduction of Sentence or Discharge of Defendant by Sentencing Court**

(a)[At] Except as provided in subsection (b) of this section, at any time during [the period of a definite sentence of three years or less] an executed period of incarceration, the judicial authority may, after a hearing and for good cause shown, reduce the sentence or order the defendant discharged or released on probation or on a conditional discharge for a period not to exceed that to which the defendant could have been sentenced originally.

(b) On and after October 1, 2021, at any time during the period of a sentence in which a defendant has been sentenced prior to, on, or after October 1, 2021, to an executed period of incarceration of more than seven years as a result of a plea agreement, including an agreement in which there is an agreed upon range of sentence, upon agreement of the defendant and the state's attorney to seek review of the sentence, the judicial authority may, after hearing and for good cause shown, reduce the sentence, order the defendant discharged, or order the defendant discharged on probation or conditional discharge for a period not to exceed that to which the defendant could have been originally sentenced.

(c) If, after a hearing pursuant to this section, the judicial authority denies a motion to reduce a defendant's sentence or discharge the defendant, the defendant may not file a subsequent motion for relief under this section until five years have elapsed from the date of the most recent decision denying such defendant relief pursuant to this section.

(d) The provisions of this section shall not apply to any portion of a sentence imposed that is a mandatory minimum sentence for an offense which may not be suspended or reduced by the court.

(e) At a hearing held by the judicial authority under this section, such judicial authority shall permit any victim of the crime to appear before the court or judge for the purpose of making a statement for the record concerning whether or not the sentence of the defendant should be reduced, the defendant should be discharged or the defendant should be discharged on probation or conditional discharge pursuant to subsection (a) or (b) of this section. In lieu of such appearance, the victim may submit a written statement to the judicial authority and the judicial authority shall make such statement a part of the record at the hearing. For the purposes of this subsection, "victim" means the victim, the legal representative of the victim or a member of the deceased victim's immediate family.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 53a-39, as amended by Public Acts 2021, No. 21-102, § 25, and Public Acts 2022, No. 22-36 § 1, particularly to include the expanded eligibility for defendants to apply for sentence reduction, the limitations on such eligibility when a defendant's sentence is for more than seven years to serve as the result of a plea agreement, the five-year waiting period to re-apply after a denial, the prohibition on sentence reduction applying to mandatory minimum sentences, and the victims' right to be heard regarding any application.

## **APPENDIX C**

(031323)

### **(NEW) Sec. 21-25. Applicability of Rules**

Sections 21-1 through 21-24 shall apply to receivers except as otherwise provided by law, including the Uniform Commercial Real Estate Receivership Act pursuant to Chapter 930 of the General Statutes, and Section 21-19.

COMMENTARY - 2023: This new section is intended to clarify the application of the rules for receivers as set forth in Chapter 21 of the Practice Book due to the adoption of the Uniform Commercial Real Estate Receivership Act (UCRERA) (Chapter 930 of the General Statutes), with an effective date of July 1, 2023. If adopted, the recommended effective date of this rule will be from promulgation which is upon publication in the Connecticut Law Journal until one year following such date unless further extended, after which additional rules relating to the UCRERA are expected to be in place.