Practice Book Revisions
Being Considered by the
Rules Committee of the Superior Court

Rules of Professional Conduct
Superior Court Rules
Forms

Including Amendment Notes and
Commentaries to Proposals
April 26, 2022

NOTICE

Public Hearing on Practice Book Revisions Being Considered by the Rules Committee of the Superior Court

On Monday, May 9, 2022, at 10:00 a.m., the Rules Committee of the Superior Court will conduct a public hearing for the purpose of receiving comments concerning Practice Book revisions that are being considered by the Committee and for the purpose of receiving comments on any proposed new rule or any change in an existing rule that any member of the public deems desirable. Those revisions follow this notice. All revisions are published on the Judicial Branch website at www.jud.ct.gov/pb.htm. The public hearing will be followed by a Rules Committee meeting.

The Rules Committee public hearing and meeting will be conducted electronically using *Microsoft Teams* communication and collaboration platform. Individuals who would like to access the public hearing and/or meeting may do so by clicking here. Individuals who wish to access the public hearing and/or meeting but who do not wish to speak at the hearing may do so by clicking https://youtu.be/9TuaU5mlAUk.

It is important that certain procedures are followed by every individual who wishes to access the public hearing and/or meeting and for those who wish to speak at the public hearing. All individuals who access the public hearing and meeting must at all times act in a professional and respectful manner. Any individual whose conduct is deemed by the Rules Committee to be disruptive or inappropriate will be removed from the public hearing or meeting.

Individuals who would like to speak at the public hearing should access the hearing one-half hour before the hearing begins in order to be recognized and placed in line while waiting to speak. Each such speaker will be allowed five minutes to offer remarks. Anyone who believes that they cannot cover their remarks within the five minute time period allowed during the public hearing, and anyone who does not wish to speak at the public hearing but wishes to offer comments on the proposed revisions, may submit their written comments to the Rules Committee by email at RulesCommittee@jud.ct.gov.

Any written comments should be received before Tuesday, May 3, 2022.

Hon. Andrew J. McDonald

Chair, Rules Committee of the Superior Court

INTRODUCTION

The following are revisions that are being considered to the Practice Book. Revisions are indicated by brackets for deletions, underlines for added language, and are explained by the commentary to the particular rule. The designation ‘‘NEW’’ is printed with the title of each proposed new rule and form.

Rules Committee of the
Superior Court

Practice Book Revisions Being Considered by the Rules Committee of the Superior Court

CHAPTER AND SECTION HEADING OF THE RULES

RULES OF PROFESSIONAL CONDUCT

Client-Lawyer Relationships

Rule
1.15. Safekeeping Property

Law Firms and Associations

Rule
5.5. Unauthorized Practice of Law

SUPERIOR COURT—GENERAL PROVISIONS

CHAPTER 1
SCOPE OF RULES

Sec.
1-11A. Media Coverage of Arraignments
1-11B. Media Coverage of Civil Proceedings
1-11C. Media Coverage of Criminal Proceedings

CHAPTER 2
ATTORNEYS

Sec.
2-4A. —Records of Bar Examining Committee
2-5. —Examination of Candidates for Admission
2-8. Qualifications for Admission
2-9. Certification of Applicants Recommended for Admission; Conditions of Admission

CHAPTER 3
APPEARANCES

CHAPTER 5
TRIALS

SUPERIOR COURT—PROCEDURE IN CIVIL MATTERS

CHAPTER 13
DISCOVERY AND DEPOSITIONS

CHAPTER 16
JURY TRIALS

CHAPTER 23
MISCELLANEOUS REMEDIES AND PROCEDURES

SUPERIOR COURT—PROCEDURE IN JUVENILE MATTERS

CHAPTER 26
GENERAL PROVISIONS

CHAPTER 27
RECEPTION AND PROCESSING OF DELINQUENCY COMPLAINTS OR PETITIONS

CHAPTER 30
DETENTION

CHAPTER 35a
HEARINGS CONCERNING NEGLECTED, ABUSED AND UNCARED FOR CHILDREN AND TERMINATION OF PARENTAL RIGHTS

SUPERIOR COURT—PROCEDURE IN CRIMINAL MATTERS

CHAPTER 42
TRIAL PROCEDURE

CHAPTER 43
SENTENCING, JUDGMENT, AND APPEAL

APPENDIX OF FORMS

PROPOSED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Rule 1.15. Safekeeping Property

(a) As used in this Rule, the terms below shall have the following meanings:

(1) ''Allowable reasonable fees'' for IOLTA accounts are per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, sweep fees, and a reasonable IOLTA account administrative or maintenance fee.

(2) An ''eligible institution'' means (i) a bank or savings and loan association authorized by federal or state law to do business in Connecticut, the deposits of which are insured by an agency of the United States government, or (ii) an open-end investment company registered with the United States Securities and Exchange Commission and authorized by federal or state law to do business in Connecticut. In addition, an eligible institution shall meet the requirements set forth in subsection (i) (3) below. The determination of whether or not an institution is an eligible institution shall be made by the organization designated by the judges of the Superior Court to administer the program pursuant to subsection (i) (4) below, subject to the dispute resolution process provided in subsection (i) (4) (E) below.

(3) ''Federal Funds Target Rate'' means the target level for the federal funds rate set by the Federal Open Market Committee of the Board of Governors of the Federal Reserve System from time to time or, if such rate is no longer available, any comparable successor rate. If such rate or successor rate is set as a range, the term ''Federal Funds Target Rate'' means the upper limit of such range.

(4) ''Interest- or dividend-bearing account'' means (i) an interest-bearing checking account, or (ii) an investment product which is a daily (overnight) financial institution repurchase agreement or an open-end money market fund. A daily financial institution repurchase agreement must be fully collateralized by U.S. Government Securities and may be established only with an eligible institution that is ''well-capitalized'' or ''adequately capitalized'' as those terms are defined by applicable federal statutes and regulations. An open-end money market fund must be invested solely in U.S. Government Securities or repurchase agreements fully collateralized by U.S. Government Securities, must hold itself out as a ''money market fund'' as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 and, at the time of the investment, must have total assets of at least $250,000,000.

(5) ''IOLTA account'' means an interest- or dividend-bearing account established by a lawyer or law firm for clients' funds at an eligible institution from which funds may be withdrawn upon request by the depositor without delay. An IOLTA account shall include only client or third person funds, except as permitted by subsection (i) (6) below. The determination of whether or not an interest- or dividend-bearing account meets the requirements of an IOLTA account shall be made by the organization designated by the judges of the Superior Court to administer the program pursuant to subsection (i) (4) below.

(6) ''Non-IOLTA account'' means an interest- or dividend-bearing account, other than an IOLTA account, from which funds may be withdrawn upon request by the depositor without delay.

(7) ''U.S. Government Securities'' means direct obligations of the United States government, or obligations issued or guaranteed as to

principal and interest by the United States or any agency or instrumentality thereof, including United States government-sponsored enterprises, as such term is defined by applicable federal statutes and regulations.

(b) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

(c) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purposes of paying bank service charges on that account or obtaining a waiver of fees and service charges on the account, but only in an amount necessary for those purposes.

(d) Absent a written agreement with the client otherwise, a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(e) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(f) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) have interests, the property shall be kept separate by the lawyer until any competing interests are resolved. The lawyer shall promptly distribute all portions of the property as to which the lawyer is able to identify the parties that have interests and as to which there are no competing interests. Where there are competing interests in the property or a portion of the property, the lawyer shall segregate and safeguard the property subject to the competing interests.

(g) The word ''interest(s)'' as used in this subsection and subsections (e) and (f) means more than the mere assertion of a claim by a third party. In the event a lawyer is notified by a third party or a third party's agent of a claim to funds held by the lawyer on behalf of a client, but it is unclear to the lawyer whether the third party has a valid interest within the meaning of this Rule, the lawyer may make a written request that the third party or third party's agent provide the lawyer such reasonable information and/or documentation as needed to assist the lawyer in determining whether substantial grounds exist for the third party's claim to the funds. If the third party or third party's agent fails to comply with such a request within sixty days, the lawyer may distribute the funds in question to the client.

(h) Notwithstanding subsections (b), (c), (d), (e) and (f), lawyers and law firms shall participate in the statutory program for the use of interest earned on lawyers' clients' funds accounts to provide funding for the delivery of legal services to the poor by nonprofit corporations whose principal purpose is providing legal services to the poor and for law school scholarships based on financial need. Lawyers and law firms shall place a client's or third person's funds in an IOLTA account if

the lawyer or law firm determines, in good faith, that the funds cannot earn income for the client in excess of the costs incurred to secure such income. For the purpose of making this good faith determination of whether a client's funds cannot earn income for the client in excess of the costs incurred to secure such income, the lawyer or law firm shall consider the following factors: (1) The amount of the funds to be deposited; (2) the expected duration of the deposit, including the likelihood of delay in resolving the relevant transaction, proceeding or matter for which the funds are held; (3) the rates of interest, dividends or yield at eligible institutions where the funds are to be deposited; (4) the costs associated with establishing and administering interest-bearing accounts or other appropriate investments for the benefit of the client, including service charges, minimum balance requirements or fees imposed by the eligible institutions; (5) the costs of the services of the lawyer or law firm in connection with establishing and maintaining the account or other appropriate investments; (6) the costs of preparing any tax reports required for income earned on the funds in the account or other appropriate investments; and (7) any other circumstances that affect the capability of the funds to earn income for the client in excess of the costs incurred to secure such income. No lawyer shall be subject to discipline for determining in good faith to deposit funds in the interest earned on lawyers' clients' funds account in accordance with this subsection.

(i) An IOLTA account may only be established at an eligible institution that meets the following requirements:

(1) No earnings from the IOLTA account shall be made available to a lawyer or law firm.

(2) Lawyers or law firms depositing a client's or third person's funds in an IOLTA account shall direct the depository institution:

(A) To remit interest or dividends, net of allowable reasonable fees, if any, on the average monthly balance in the account, or as otherwise computed in accordance with the institution's standard accounting practices, at least quarterly, to the organization designated by the judges of the Superior Court to administer this statutory program;

(B) To transmit to the organization administering the program with each remittance a report that identifies the name of the lawyer or law firm for whom the remittance is sent, the amount of remittance attributable to each IOLTA account, the rate and type of interest or dividends applied, the amount of interest or dividends earned, the amount and type of fees and service charges deducted, if any, and the average account balance for the period for which the report is made and such other information as is reasonably required by such organization; and

(C) To transmit to the depositing lawyer or law firm at the same time a report in accordance with the institution's normal procedures for reporting to its depositors.

(3) Participation by banks, savings and loan associations, and investment companies in the IOLTA program is voluntary. An eligible institution that elects to offer and maintain IOLTA accounts shall meet the following requirements:

(A) The eligible institution shall pay no less on its IOLTA accounts than the highest interest rate or dividend generally available from the institution to its non-IOLTA customers when the IOLTA account meets or exceeds the same minimum balance or other eligibility qualifications on its non-IOLTA accounts, if any. In determining the highest interest

rate or dividend generally available from the institution to its non-IOLTA customers, an eligible institution may consider, in addition to the balance in the IOLTA account, factors customarily considered by the institution when setting interest rates or dividends for its non-IOLTA customers, provided that such factors do not discriminate between IOLTA accounts and non-IOLTA accounts and that these factors do not include the fact that the account is an IOLTA account. In lieu of the rate set forth in the first sentence of this subparagraph, an eligible institution may pay a rate equal to the higher of either (i) one percent per annum, or (ii) sixty percent of the Federal Funds Target Rate. Such alternate rate shall be determined for each calendar quarter as of the first business day of such quarter and shall be deemed net of allowable reasonable fees and service charges. The eligible institution may offer, and the lawyer or law firm may request, a sweep account that provides a mechanism for the overnight investment of balances in the IOLTA account in an interest- or dividend-bearing account that is a daily financial institution repurchase agreement or a money market fund. Nothing in this Rule shall preclude an eligible institution from paying a higher interest rate or dividend than described above or electing to waive any fees and service charges on an IOLTA account. An eligible institution may choose to pay the higher interest or dividend rate on an IOLTA account in lieu of establishing it as a higher rate product.

(B) Interest and dividends shall be calculated in accordance with the eligible institution's standard practices for non-IOLTA customers.

(C) Allowable reasonable fees are the only fees and service charges that may be deducted by an eligible institution from interest earned on an IOLTA account. Allowable reasonable fees may be deducted

from interest or dividends on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No fees or service charges other than allowable reasonable fees may be assessed against the accrued interest or dividends on an IOLTA account. Any fees and service charges other than allowable reasonable fees shall be the sole responsibility of, and may only be charged to, the lawyer or law firm maintaining the IOLTA account. Fees and service charges in excess of the interest or dividends earned on one IOLTA account for any period shall not be taken from interest or dividends earned on any other IOLTA account or accounts or from the principal of any IOLTA account.

(4) The judges of the Superior Court, upon recommendation of the chief court administrator, shall designate an organization qualified under Sec. 501 (c) (3) of the Internal Revenue Code, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended, to administer the program. The chief court administrator shall cause to be **[**printed**]** published in the Connecticut Law Journal an appropriate announcement identifying the designated organization. The organization administering the program shall comply with the following:

(A) Each June **[**mail to**]** shall publish on the designated organization's website a detailed annual report of all funds disbursed under the program, including the amount disbursed to each recipient of funds, and shall cause to be published in the Connecticut Law Journal a notice that the detailed annual report is available on the designated organization's website, along with a link to the report that can be accessed by members of the public as well as each judge of the Superior Court, and mail to each lawyer or law firm participating in

the program a copy of that detailed annual report **[**of all funds disbursed under the program including the amount disbursed to each recipient of funds**]**;

(B) Each June submit the following in detail to the chief court administrator for approval and comment by the Executive Committee of the Superior Court: (i) its proposed goals and objectives for the program; (ii) the procedures it has established to avoid discrimination in the awarding of grants; (iii) information regarding the insurance and fidelity bond it has procured; (iv) a description of the recommendations and advice it has received from the Advisory Panel established by General Statutes § 51-81c and the action it has taken to implement such recommendations and advice; (v) the method it utilizes to allocate between the two uses of funds provided for in § 51-81c and the frequency with which it disburses funds for such purposes; (vi) the procedures it has established to monitor grantees to ensure that any limitations or restrictions on the use of the granted funds have been observed by the grantees, such procedures to include the receipt of annual audits of each grantee showing compliance with grant awards and setting forth quantifiable levels of services that each grantee has provided with grant funds; (vii) the procedures it has established to ensure that no funds that have been awarded to grantees are used for lobbying purposes; and (viii) the procedures it has established to segregate funds to be disbursed under the program from other funds of the organization;

(C) Allow the Judicial Branch access to its books and records upon reasonable notice;

(D) Submit to audits by the Judicial Branch; and

(E) Provide for a dispute resolution process for resolving disputes as to whether a bank, savings and loan association, or open-end

investment company is an eligible institution within the meaning of this Rule.

(5) Before an organization may be designated to administer this program, it shall file with the chief court administrator, and the judges of the Superior Court shall have approved, a resolution of the board of directors of such an organization which includes provisions:

(A) Establishing that all funds the organization might receive pursuant to subsection (i) (2) (A) above will be exclusively devoted to providing funding for the delivery of legal services to the poor by nonprofit corporations whose principal purpose is providing legal services to the poor and for law school scholarships based on financial need and to the collection, management and distribution of such funds;

(B) Establishing that all interest and dividends earned on such funds, less allowable reasonable fees, if any, shall be used exclusively for such purposes;

(C) Establishing and describing the methods the organization will utilize to implement and administer the program and to allocate funds to be disbursed under the program, the frequency with which the funds will be disbursed by the organization for such purposes, and the segregation of such funds from other funds of the organization;

(D) Establishing that the organization shall consult with and receive recommendations from the Advisory Panel established by General Statutes § 51-81c regarding the implementation and administration of the program, including the method of allocation and the allocation of funds to be disbursed under such program;

(E) Establishing that the organization shall comply with the requirements of this Rule; and

(F) Establishing that said resolution will not be amended, and the facts and undertakings set forth in it will not be altered, until the same shall have been approved by the judges of the Superior Court and ninety days have elapsed after publication by the chief court administrator of the notice of such approval in the Connecticut Law Journal.

(6) Nothing in this subsection (i) shall prevent a lawyer or law firm from depositing a client's or third person's funds, regardless of the amount of such funds or the period for which such funds are expected to be held, in a separate non-IOLTA account established on behalf of and for the benefit of the client or third person. Such an account shall be established as:

(A) A separate clients' funds account for the particular client or third person on which the interest or dividends will be paid to the client or third person; or

(B) A pooled clients' funds account with subaccounting by the bank, savings and loan association or investment company or by the lawyer or law firm, which provides for the computation of interest or dividends earned by each client's or third person's funds and the payment thereof to the client or third person.

(j) A lawyer who practices in this jurisdiction shall maintain current financial records as provided in this Rule and shall retain the following records for a period of seven years after termination of the representation:

(1) receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement;

(2) ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited,

the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed;

(3) copies of retainer and compensation agreements with clients as required by Rule 1.5 of the Rules of Professional Conduct;

(4) copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf;

(5) copies of bills for legal fees and expenses rendered to clients;

(6) copies of records showing disbursements on behalf of clients;

(7) the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks provided by a financial institution;

(8) records of all electronic transfers from client trust accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient and confirmation from the financial institution of the trust account number from which money was withdrawn and the date and the time the transfer was completed;

(9) copies of monthly trial balances and at least quarterly reconciliations of the client trust accounts maintained by the lawyer; and

(10) copies of those portions of client files that are reasonably related to client trust account transactions.

(k) With respect to client trust accounts required by this Rule:

(1) only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account;

(2) receipts shall be deposited intact and records of deposit should be sufficiently detailed to identify each item; and

(3) withdrawals shall be made only by check payable to a named payee or by authorized electronic transfer and not to cash.

(*l*) The records required by this Rule may be maintained by electronic, photographic, or other media provided that they otherwise comply with these Rules and that printed copies can be produced. These records shall be readily accessible to the lawyer.

(m) Upon dissolution of a law firm or of any legal professional corporation, the partners shall make reasonable arrangements for the maintenance of client trust account records specified in this Rule.

(n) Upon the sale of a law practice, the seller shall make reasonable arrangements for the maintenance of records specified in this Rule.

COMMENTARY: A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property that is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if moneys, in one or more trust accounts. Separate trust accounts may be warranted when administering estate moneys or acting in similar fiduciary capacities. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practices.

While normally it is impermissible to commingle the lawyer's own funds with client funds, subsection (c) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds is the lawyer's.

Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the clients' funds account funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be

kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

Subsection (f) also recognizes that third parties, such as a client's creditor who has a lien on funds recovered in a personal injury action, may have lawful interests in specific funds or other property in a lawyer's custody. A lawyer may have a duty under applicable law to protect such third-party interests against wrongful interference by the client. In such cases the lawyer must refuse to surrender the property to the client until the competing interests are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but, when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

The word ''interest(s)'' as used in subsections (e), (f) and (g) includes, but is not limited to, the following: a valid judgment concerning disposition of the property; a valid statutory or judgment lien, or other lien recognized by law, against the property; a letter of protection or similar obligation that is both (a) directly related to the property held by the lawyer, and (b) an obligation specifically entered into to aid the lawyer in obtaining the property; or a written assignment, signed by the client, conveying an interest in the funds or other property to another person or entity.

The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this Rule. A ''lawyers' fund'' for client protection provides a means through

the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer must participate where it is mandatory, and, even when it is voluntary, the lawyer should participate.

Subsection (i) requires lawyers and law firms to participate in the statutory IOLTA program. The lawyer or law firm should review its IOLTA account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client or third person.

Subsection (j) lists the basic financial records that a lawyer must maintain with regard to all trust accounts of a law firm. These include the standard books of account, and the supporting records that are necessary to safeguard and account for the receipt and disbursement of client or third person funds as required by Rule 1.15 of the Rules of Professional Conduct.

Subsection (j) requires that lawyers maintain client trust account records, including the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks for a period of at least seven years after termination of each particular legal engagement or representation. The ''Check Clearing for the 21st Century Act'' or ''Check 21 Act,'' codified at 12 U.S.C. § 5001 et seq., recognizes ''substitute checks'' as the legal equivalent of an original check. A ''substitute check'' is defined at 12 U.S.C. § 5002 (16) as paper reproduction of the original check that contains an image of the front and back of the original check; bears a magnetic ink character recognition (''MICR'') line containing all the information appearing on the MICR line of the original check; conforms with generally applicable industry standards

for substitute checks; and is suitable for automated processing in the same manner as the original check. Banks, as defined in 12 U.S.C. § 5002 (2), are not required to return to customers the original canceled checks. Most banks now provide electronic images of checks to customers who have access to their accounts on internet based websites. It is the lawyer's responsibility to download electronic images. Electronic images shall be maintained for the requisite number of years and shall be readily available for printing upon request or shall be printed and maintained for the requisite number years.

The ACH (Automated Clearing House) Network is an electronic funds transfer or payment system that primarily provides for the interbank clearing of electronic payments between originating and receiving participating financial institutions. ACH transactions are payment instructions to either debit or credit a deposit account. ACH payments are used in a variety of payment environments including bill payments, business-to-business payments, and government payments (e.g., tax refunds). In addition to the primary use of ACH transactions, retailers and third parties use the ACH system for other types of transactions including electronic check conversion (ECC). ECC is the process of transmitting MICR information from the bottom of a check, converting check payments to ACH transactions depending upon the authorization given by the account holder at the point-of-purchase. In this type of transaction, the lawyer should be careful to comply with the requirements of subsection (j) (8).

There are five types of check conversions where a lawyer should be careful to comply with the requirements of subsection (j) (8). First, in a ''point-of-purchase conversion,'' a paper check is converted into a debit at the point of purchase, and the paper check is returned to the issuer. Second, in a ''back-office conversion,'' a paper check is

presented at the point-of-purchase and is later converted into a debit, and the paper check is destroyed. Third, in a ''account-receivable conversion,'' a paper check is converted into a debit, and the paper check is destroyed. Fourth, in a ''telephone-initiated debit'' or ''check-by-phone'' conversion, bank account information is provided via the telephone, and the information is converted to a debit. Fifth, in a ''web-initiated debit,'' an electronic payment is initiated through a secure web environment. Subsection (j) (8) applies to each of the types of electronic funds transfers described. All electronic funds transfers shall be recorded, and a lawyer should not reuse a check number which has been previously used in an electronic transfer transaction.

The potential of these records to serve as safeguards is realized only if the procedures set forth in subsection (j) (9) are regularly performed. The trial balance is the sum of balances of each client's ledger card (or the electronic equivalent). Its value lies in comparing it on a monthly basis to a control balance. The control balance starts with the previous month's balance, then adds receipts from the Trust Receipts Journal and subtracts disbursements from the Trust Disbursements Journal. Once the total matches the trial balance, the reconciliation readily follows by adding amounts of any outstanding checks and subtracting any deposits not credited by the bank at month's end. This balance should agree with the bank statement. Quarterly reconciliation is recommended only as a minimum requirement; monthly reconciliation is the preferred practice given the difficulty of identifying an error (whether by the lawyer or the bank) among three months' transactions.

In some situations, documentation in addition to that listed in subdivisions (1) through (9) of subsection (i) is necessary for a complete understanding of a trust account transaction. The type of document

that a lawyer must retain under subdivision (10) of subsection (i) because it is ''reasonably related'' to a client trust transaction will vary depending on the nature of the transaction and the significance of the document in shedding light on the transaction. Examples of documents that typically must be retained under this subdivision include correspondence between the client and lawyer relating to a disagreement over fees or costs or the distribution of proceeds, settlement agreements contemplating payment of funds, settlement statements issued to the client, documentation relating to sharing litigation costs and attorney's fees for subrogated claims, agreements for division of fees between lawyers, guarantees of payment to third parties out of proceeds recovered on behalf of a client, and copies of bills, receipts or correspondence related to any payments to third parties on behalf of a client (whether made from the client's funds or from the lawyer's funds advanced for the benefit of the client).

Subsection (k) lists minimal accounting controls for client trust accounts. It also enunciates the requirement that only a lawyer admitted to the practice of law in this jurisdiction or a person who is under the direct supervision of the lawyer shall be the authorized signatory or authorized to make electronic transfers from a client trust account. While it is permissible to grant limited nonlawyer access to a client trust account, such access should be limited and closely monitored by the lawyer. The lawyer has a nondelegable duty to protect and preserve the funds in a client trust account and can be disciplined for failure to supervise subordinates who misappropriate client funds. See Rules 5.1 and 5.3 of the Rules of Professional Conduct.

Authorized electronic transfers shall be limited to (1) money required for payment to a client or third person on behalf of a client; (2) expenses properly incurred on behalf of a client, such as filing fees or payment

to third persons for services rendered in connection with the representation; or (3) money transferred to the lawyer for fees that are earned in connection with the representation and are not in dispute; or (4) money transferred from one client trust account to another client trust account.

The requirements in subdivision (2) of subsection (k) that receipts shall be deposited intact mean that a lawyer cannot deposit one check or negotiable instrument into two or more accounts at the same time, a practice commonly known as a split deposit.

Subsection (*l*) allows the use of alternative media for the maintenance of client trust account records if printed copies of necessary reports can be produced. If trust records are computerized, a system of regular and frequent (preferably daily) backup procedures is essential. If a lawyer uses third-party electronic or internet based file storage, the lawyer must make reasonable efforts to ensure that the company has in place, or will establish reasonable procedures to protect the confidentiality of client information. See ABA Formal Ethics Opinion 398 (1995). Records required by subsection (j) shall be readily accessible and shall be readily available to be produced upon request by the client or third person who has an interest as provided in Rule 1.15 of the Rules of Professional Conduct, or by the official request of a disciplinary authority, including but not limited to, a subpoena duces tecum. Personal identifying information in records produced upon request by the client or third person or by disciplinary authority shall remain confidential and shall be disclosed only in a manner to ensure client confidentiality as otherwise required by law or court rule.

Subsections (m) and (n) provide for the preservation of a lawyer's client trust account records in the event of dissolution or sale of a law practice. Regardless of the arrangements the partners or shareholders

make among themselves for maintenance of the client trust records, each partner may be held responsible for ensuring the availability of these records. For the purposes of these Rules, the terms ''law firm,'' ''partner,'' and ''reasonable'' are defined in accordance with Rules 1.0 (d), (h), and (i) of the Rules of Professional Conduct.

AMENDMENT NOTE: The changes to this rule authorize the administrator of the IOLTA program to distribute electronically to the judges its annual report required by the rule.

Rule 5.5. Unauthorized Practice of Law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. The practice of law in this jurisdiction is defined in Practice Book Section 2-44A. Conduct described in subsections (c), **[**and**]** (d) and (f) in another jurisdiction shall not be deemed the unauthorized practice of law for purposes of this subsection (a).

(b) A lawyer who is not admitted to practice in this jurisdiction, shall not:

(1) except as authorized by law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction which accords similar privileges to Connecticut lawyers in its jurisdiction, and provided that the lawyer is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction, that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding in this or another jurisdiction, with respect to a matter that is substantially related to, or arises in, a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within subdivisions (c) (2) or (c) (3) and arise out of or are substantially related to the legal services provided to an existing client of the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, who is in good standing in each jurisdiction in which he or she has been admitted, or who has taken retirement status or otherwise left the active practice of law while in good standing in another jurisdiction, may participate in the provision of uncompensated pro bono publico legal services in Connecticut where such services are offered under the supervision of an organized legal aid society or state or local bar association project.

(e) A lawyer admitted to practice in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) the lawyer is authorized to provide pursuant to Practice Book Section 2-15A and the lawyer is an authorized house counsel as provided in that section; or

(2) the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

(f) To the extent that a lawyer is physically present in this jurisdiction and remotely engages in the practice of law as authorized under the laws of another United States jurisdiction in which that lawyer is admitted, such conduct does not constitute the practice of law in this jurisdiction.

[(f)**]** (g) A lawyer not admitted to practice in this jurisdiction and authorized by the provisions of this Rule to engage in providing legal services on a temporary basis in this jurisdiction is thereby subject to the disciplinary rules of this jurisdiction with respect to the activities in this jurisdiction.

[(g)**]** (h) A lawyer desirous of obtaining the privileges set forth in subsection (c) (3) or (4):

(1) shall notify the statewide bar counsel as to each separate matter prior to any such representation in Connecticut;

(2) shall notify the statewide bar counsel upon termination of each such representation in Connecticut; and

(3) shall pay such fees as may be prescribed by the Judicial Branch.

COMMENTARY: A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Subsection (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer's assisting another person. For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person's jurisdiction.

A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed as self-represented parties.

Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates subsection (b) (1) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1 (a) and 7.5 (b). A lawyer not admitted to practice in this jurisdiction who engages in repeated and frequent activities of a similar nature in this jurisdiction such as the preparation and/or recording of legal documents (loans and mortgages) involving residents or property in this state may be considered to have a systematic and continuous presence in this jurisdiction that would not be authorized by this Rule and could, thereby, be considered to constitute unauthorized practice of law.

There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the

courts. Subsection (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of subdivisions (e) (1) and (e) (2), this Rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here. There is no single test to determine whether a lawyer's services are provided on a ''temporary basis'' in this jurisdiction and may, therefore, be permissible under subsection (c). Services may be ''temporary'' even though the lawyer provides services in this jurisdiction for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

Subsections (c), **[**and**]** (d) and (f) apply to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. The word ''admitted'' in subsections (c), **[**and**]** (d) and (f) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who, while technically admitted, is not authorized to practice, because, for example, the lawyer is in an inactive status.

Subdivision (c) (1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this subdivision to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency

to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under subdivision (c) (2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule requires the lawyer to obtain that authority.

Subdivision (c) (2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, subdivision (c) (2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

Subdivision (c) (3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this

jurisdiction if those services are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding in this or another jurisdiction, if the services are with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

Subdivision (c) (4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction if they arise out of or are substantially related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within subdivision (c) (2) or (c) (3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

Subdivision (c) (3) requires that the services be with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted. A variety of factors may evidence such a relationship. However, the matter, although involving other jurisdictions, must have a significant connection with the jurisdiction in which the lawyer is admitted to practice. A significant aspect of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities and the resulting legal issues involve multiple jurisdictions. Subdivision (c) (4) requires that the services provided in this jurisdiction in which the lawyer is not admitted to practice be for (1) an existing client, i.e., one with whom the lawyer has a previous relationship and not arising solely out of a Connecticut based matter and (2) arise out of or be substantially related to the legal services provided to that client in a jurisdiction in which the lawyer is admitted to practice. Without both, the lawyer is

prohibited from practicing law in the jurisdiction in which the lawyer is not admitted to practice.

For purposes of subsection (d), an attorney in ''good standing'' is one who: (1) has been admitted to practice law in any United States jurisdiction; (2) is not suspended or disbarred in any other jurisdiction; (3) has never resigned or retired from the practice of law while subject to discipline or disciplinary proceedings in any other jurisdiction; (4) has not been placed on inactive status while subject to discipline or disciplinary proceedings in any other jurisdiction; and (5) is not currently subject to disciplinary proceedings in any other jurisdiction.

Subdivision (e) (2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent.

A lawyer who practices law in this jurisdiction pursuant to subsection (c), (d) or (e) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5 (a). In some circumstances, a lawyer who practices law in this jurisdiction pursuant to subsection (c), (d) or (e) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction.

Subsections (c), (d), **[**and**]** (e) and (f) do not authorize communications advertising legal services in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services in this jurisdiction is governed by Rules 7.1 to 7.5.

Subsection (f) reflects the reality that with the advancement of technology, many lawyers work remotely from locations outside the jurisdiction(s) in which they are admitted to practice law. Subsection (f) allows those lawyers to practice law as authorized in the jurisdiction(s) in

which they are admitted while physically present in Connecticut. This subsection coordinates with Practice Book Section 2-44A (c), which provides that a lawyer admitted in another United States jurisdiction engaged in the remote practice of law as authorized by that jurisdiction while physically present in Connecticut is not engaged in the practice of law in this jurisdiction.

AMENDMENT NOTE: The changes to this rule and to Practice Book Section 2-44A address the issue of remote practice and provide that to the extent that a lawyer is physically present in Connecticut and remotely engaged in the practice of law under the law of another recognized jurisdiction in which the lawyer is admitted, such conduct does not constitute the practice of law in Connecticut.

PROPOSED AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

Sec. 1-11A. Media Coverage of Arraignments

(a) The broadcasting, televising, recording, or taking photographs by media in the courtroom during arraignments may be authorized by the judicial authority presiding over such arraignments in the manner set forth in this section, as implemented by the judicial authority.

(b) Any media representative desiring to broadcast, televise, record or photograph an arraignment shall send an e-mail request for electronic coverage to a person designated by the chief court administrator to receive such requests. Said designee shall promptly transmit any such request to the administrative judge, presiding judge of criminal matters, arraignment judge, clerk and the supervising marshal. The administrative judge shall ensure that notice is provided to the state's attorney and the attorney for the defendant or, where the defendant is unrepresented, to the defendant. Electronic coverage shall not be permitted until the state's attorney and the attorney for the defendant,

or the defendant if he or she has no attorney, have had an opportunity to object to the request on the record and the judicial authority has ruled on the objection. If a request for coverage is denied or is granted over the objection of any party, the judicial authority shall articulate orally or in writing the reasons for its decision on the request and such decision shall be final.

(c) Broadcasting, televising, recording or photographing of the following are prohibited:

(1) any criminal defendant who has not been made subject to an order for electronic coverage and, to the extent practicable, any person other than court personnel or other participants in the arraignment for which electronic coverage is permitted;

(2) conferences involving the attorneys and the judicial authority at the bench or communications between the defendant and his or her attorney or other legal representative;

(3) close ups of documents of counsel, the clerk or the judicial authority;

(4) the defendant while exiting or entering the lockup;

(5) to the extent practicable, any restraints on the defendant;

(6) to the extent practicable, any judicial marshals or Department of Correction employees escorting the defendant while he or she is in the courtroom; and

(7) proceedings in cases transferred from juvenile court prior to a determination by the adult court that the matter was properly transferred.

(d) Only one (1) still camera, one (1) television camera and one (1) audio recording device, which do not produce a distracting sound or light, shall be employed to cover the arraignment, unless otherwise ordered by the judicial authority.

(e) The operator of any camera, television or audio recording equipment shall not employ any artificial lighting device to supplement the existing light in the courtroom.

(f) All personnel and equipment shall be situated in an unobtrusive manner within the courtroom. The location of any such equipment and personnel shall be determined by the judicial authority. The location of the camera, to the extent possible, shall provide access to optimum coverage. Once the judicial authority designates the position for a camera, the operator of the camera must remain in that position and not move about until the arraignment is completed.

(g) Videographers, photographers and equipment operators must conduct themselves in the courtroom quietly and discreetly, with due regard for the dignity of the courtroom.

(h) If there are multiple requests to broadcast, televise, record or photograph the same arraignment, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(i) On camera reporting and interviews shall only be conducted outside of the courthouse.

COMMENTARY: The change to subsection (b) clarifies that the person to whom the media e-mails a request for electronic coverage is the person designated by the chief court administrator to receive the request.

The change to subsection (h) makes it clear that the judicial authority shall not mediate any disputes among the media regarding pooling arrangements. There is similar language in subsection (m) of Section 1-11B and subsection (o) of Section 1-11C. This new language pro-

vides consistency among all of the rules concerning camera coverage of proceedings.

Sec. 1-11B. Media Coverage of Civil Proceedings

(a) The broadcasting, televising, recording or photographing of civil proceedings and trials in the Superior Court by news media should be allowed, subject to the limitations set forth herein and in Section 1-10B.

(b) A judicial authority shall permit broadcasting, televising, recording or photographing of civil proceedings and trials in courtrooms of the Superior Court except as hereinafter precluded or limited. As used in this rule, the word ''trial'' in jury cases shall mean proceedings taking place after the jury has been sworn and in nonjury proceedings commencing with the swearing in of the first witness.

(c) Any party, attorney, witness or other interested person may object in advance of electronic coverage of a civil proceeding or trial if there exists a substantial reason to believe that such coverage will undermine the legal rights of a party or will significantly compromise the safety of a witness or other interested person or impact significant privacy concerns. To the extent practicable, notice that an objection to the electronic coverage has been filed, and the date, time and location of the hearing on such objection shall be posted on the Judicial Branch website. Any person, including the media, whose rights are at issue in considering whether to allow electronic coverage of the proceeding or trial, may participate in the hearing to determine whether to limit or preclude such coverage. When such objection is filed by any party, attorney, witness or other interested person, the burden of proving that electronic coverage of the civil proceeding or trial should be limited or precluded shall be on the person who filed the objection.

(d) The judicial authority, in deciding whether to limit or preclude electronic coverage of a civil proceeding or trial, shall consider all rights at issue and shall limit or preclude such coverage only if there exists a compelling reason to do so, there are no reasonable alternatives to such limitation or preclusion, and such limitation or preclusion is no broader than necessary to protect the compelling interest at issue.

(e) If the judicial authority has a substantial reason to believe that the electronic coverage of a civil proceeding or trial will undermine the legal rights of a party or will significantly compromise the safety or significant privacy concerns of a party, witness or other interested person, and no party, attorney, witness or other interested person has objected to such coverage, the judicial authority shall schedule a hearing to consider limiting or precluding such coverage. To the extent practicable, notice that the judicial authority is considering limiting or precluding electronic coverage of a civil proceeding or trial, and the date, time and location of the hearing thereon shall be given to the parties and others whose interests may be directly affected by a decision so that they may participate in the hearing and shall be posted on the Judicial Branch website.

(f) Objection raised during the course of a civil proceeding or trial to the photographing, videotaping or audio recording of specific aspects of the proceeding or trial, or specific individuals or exhibits will be heard and decided by the judicial authority, based on the same standards as set out in subsection (d) of this section used to determine whether to limit or preclude coverage based on objections raised before the start of a civil proceeding or trial.

(g) The trial judge in his or her discretion, upon the judge's own motion or at the request of a participant, may prohibit the broadcasting, televising, recording or photographing of any participant at the trial.

The judge shall give great weight to requests where the protection of the identity of a person is desirable in the interests of justice, such as for the victims of crime, police informants, undercover agents, relocated witnesses, juveniles and individuals in comparable situations. ''Participant'' for the purpose of this section shall mean any party, lawyer or witness.

(h) The judicial authority shall articulate the reasons for its decision on whether or not to limit or preclude electronic coverage of a civil proceeding or trial and such decision shall be final.

(i) No broadcasting, televising, recording and photographic equipment shall be placed in or removed from the courtroom while the court is in session. Television film magazines or still camera film or lenses shall not be changed within the courtroom except during a recess or other appropriate time in the trial.

(j) Only still camera, television and audio equipment which does not produce distracting sound or light shall be employed to cover the trial. The operator of such equipment shall not employ any artificial lighting device to supplement the existing light in the courtroom without the approval of the trial judge and other appropriate authority.

(k) Except as provided by these rules, broadcasting, televising, recording and photographing in areas immediately adjacent to the courtroom during sessions of court or recesses between sessions shall be prohibited.

(*l*) The conduct of all attorneys with respect to trial publicity shall be governed by Rule 3.6 of the Rules of Professional Conduct.

(m) **[**The judicial authority in its discretion may require pooling arrangements by the media. Pool representatives should ordinarily be used for video, still cameras and radio, with each pool representative

to be decided by the relevant media group. Participating members of the broadcasting, televising, recording and photographic media shall make their respective pooling arrangements, including the establishment of necessary procedures and selection of pool representatives, without calling upon the judicial authority to mediate any dispute as to the appropriate media representative or equipment for a particular trial. If any such medium shall not agree on equipment, procedures and personnel, the judicial authority shall not permit that medium to have coverage at the trial.] If there are multiple requests to broadcast, televise, record or photograph the same civil proceeding or trial, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(n) Unless good cause is shown, any media or pool representative seeking to broadcast, televise, record or photograph a civil proceeding or trial shall, at least three days prior to the commencement of the proceeding or trial, [submit a written notice of media coverage to the administrative judge of the judicial district where the proceeding is to be heard or the case is to be tried] send an e-mail request for media coverage to a person designated by the chief court administrator to receive such requests. [A notice of media coverage submitted on behalf of a pool shall contain the name of each news organization seeking to participate in that pool.] The [administrative judge] designee shall inform the administrative judge, presiding judge of civil matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk, and the supervising marshal of the [notice] request, and the judicial authority shall allow such coverage except as otherwise provided in this section. [Any news organization seeking permission

to participate in a pool whose name was not submitted with the original notice of media coverage may, at any time, submit a separate written notice to the administrative judge and shall be allowed to participate in the pool arrangement.**]**

(o) To evaluate and resolve prospective problems where broadcasting, televising, recording or photographing of a civil proceeding or trial will take place, and to ensure compliance with these rules during the proceeding or trial, the judicial authority who will hear the proceeding or preside over the trial may require the attendance of attorneys and media personnel at a pretrial conference. At such conference, the judicial authority shall set forth the conditions of coverage in accordance herewith.

COMMENTARY: The change to subsection (m) simplifies the rule requiring the media to make pooling arrangements among themselves and reiterates that the judicial authority shall not mediate any disputes.

The changes to subsection (n) make the following changes to the camera rules impacting civil proceedings: (1) clarifies that the media must e-mail their requests only to a person designated by the chief court administrator to receive such requests rather than the respective administrative judge; (2) removes the requirement that the pool media organization provide a list of all news organizations seeking to participate in the pool; (3) clarifies that the person designated by the chief court administrator will inform the following people of the request: administrative judge, presiding judge of civil matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk and the supervising marshal; and (4) removes the requirement for news organizations whose names were not originally included in the pool arrangement to submit a request to the administrative judge to be included in the pool. The requirement for the pool media organization

to provide a list of all news organizations seeking to participate in the pool is obsolete. Current practice is that the news organizations work out all of the pooling logistics among themselves.

Sec. 1-11C. Media Coverage of Criminal Proceedings

(a) Except as authorized by Section 1-11A regarding media coverage of arraignments, the broadcasting, televising, recording or photographing by media of criminal proceedings and trials in the Superior Court shall be allowed except as hereinafter precluded or limited and subject to the limitations set forth in Section 1-10B.

(b) Except as provided in subsection (q) of this section, no broadcasting, televising, recording or photographing of trials or proceedings involving sexual offense charges shall be permitted.

(c) As used in this rule, the word ''trial'' in jury cases shall mean proceedings taking place after the jury has been sworn and in nonjury proceedings commencing with the swearing in of the first witness. ''Criminal proceeding'' shall mean any hearing or testimony, or any portion thereof, in open court and on the record except an arraignment subject to Section 1-11A.

(d) Unless good cause is shown, any media or pool representative seeking to broadcast, televise, record or photograph a criminal proceeding or trial shall, at least three days prior to the commencement of the proceeding or trial, **[**submit a written notice of media coverage to the administrative judge of the judicial district where the proceeding is to be heard or the case is to be tried**]** send an e-mail request for media coverage to a person designated by the chief court administrator to receive such requests. **[**A notice of media coverage submitted on behalf of a pool shall contain the name of each news organization seeking to participate in that pool.**]** The **[**administrative judge**]** designee shall inform the administrative judge, presiding judge of criminal mat-

ters, judicial authority who will hear the proceeding or who will preside over the trial, clerk, and the supervising marshal of the [notice] request, and the judicial authority shall allow such coverage except as otherwise provided.

(e) Any party, attorney, witness or other interested person may object in advance of electronic coverage of a criminal proceeding or trial if there exists a substantial reason to believe that such coverage will undermine the legal rights of a party or will significantly compromise the safety of a witness or other person or impact significant privacy concerns. In the event that the media request camera coverage and, to the extent practicable, notice that an objection to the electronic coverage has been filed, the date, time and location of the hearing on such objection shall be posted on the Judicial Branch website. Any person, including the media, whose rights are at issue in considering whether to allow electronic coverage of the proceeding or trial, may participate in the hearing to determine whether to limit or preclude such coverage. When such objection is filed by any party, attorney, witness or other interested person, the burden of proving that electronic coverage of the criminal proceeding or trial should be limited or precluded shall be on the person who filed the objection.

(f) The judicial authority, in deciding whether to limit or preclude electronic coverage of a criminal proceeding or trial, shall consider all rights at issue and shall limit or preclude such coverage only if there exists a compelling reason to do so, there are no reasonable alternatives to such limitation or preclusion, and such limitation or preclusion is no broader than necessary to protect the compelling interest at issue.

(g) If the judicial authority has a substantial reason to believe that the electronic coverage of a criminal proceeding or trial will undermine the legal rights of a party or will significantly compromise the safety

or privacy concerns of a party, witness or other interested person, and no party, attorney, witness or other interested person has objected to such coverage, the judicial authority shall schedule a hearing to consider limiting or precluding such coverage. To the extent practicable, notice that the judicial authority is considering limiting or precluding electronic coverage of a criminal proceeding or trial, and the date, time and location of the hearing thereon shall be given to the parties and others whose interests may be directly affected by a decision so that they may participate in the hearing and shall be posted on the Judicial Branch website.

(h) Objection raised during the course of a criminal proceeding or trial to the photographing, videotaping or audio recording of specific aspects of the proceeding or trial, or specific individuals or exhibits will be heard and decided by the judicial authority, based on the same standards as set out in subsection (f) of this section used to determine whether to limit or preclude coverage based on objections raised before the start of a criminal proceeding or trial.

(i) The judge presiding over the proceeding or trial in his or her discretion, upon the judge's own motion or at the request of a participant, may prohibit the broadcasting, televising, recording or photographing of any participant at the trial. The judge shall give great weight to requests where the protection of the identity of a person is desirable in the interests of justice, such as for the victims of crime, police informants, undercover agents, relocated witnesses, juveniles and individuals in comparable situations. ''Participant'' for the purpose of this section shall mean any party, lawyer or witness.

(j) The judicial authority shall articulate the reasons for its decision on whether or not to limit or preclude electronic coverage of a criminal proceeding or trial, and such decision shall be final.

(k) (1) Only one television camera operator, utilizing one portable mounted television camera, shall be permitted in the courtroom. The television camera and operator shall be positioned in such location in the courtroom as shall be designated by the trial judge. Microphones, related wiring and equipment essential for the broadcasting, televising or recording shall be unobtrusive and shall be located in places designated in advance by the trial judge. While the trial is in progress, the television camera operator shall operate the television camera in this designated location only.

(2) Only one still camera photographer shall be permitted in the courtroom. The still camera photographer shall be positioned in such location in the courtroom as shall be designated by the trial judge. While the trial is in progress, the still camera photographer shall photograph court proceedings from this designated location only.

(3) Only one audio recorder shall be permitted in the courtroom for purposes of recording the proceeding or trial. Microphones, related wiring and equipment essential for the recording shall be unobtrusive and shall be located in places designated in advance by the trial judge.

(*l*) Only still camera, television and audio equipment which does not produce distracting sound or light shall be employed to cover the proceeding or trial. The operator of such equipment shall not employ any artificial lighting device to supplement the existing light in the courtroom without the approval of the judge presiding over the proceeding or trial and other appropriate authority.

(m) Except as provided by these rules, broadcasting, televising, recording and photographing in areas immediately adjacent to the courtroom during sessions of court or recesses between sessions shall be prohibited.

(n) The conduct of all attorneys with respect to trial publicity shall be governed by Rule 3.6 of the Rules of Professional Conduct.

(o) **[**The judicial authority in its discretion may require pooling arrangements by the media. Pool representatives should ordinarily be used for video, still cameras and radio, with each pool representative to be decided by the relevant media group. Participating members of the broadcasting, televising, recording and photographic media shall make their respective pooling arrangements, including the establishment of necessary procedures and selection of pool representatives, without calling upon the judicial authority to mediate any dispute as to the appropriate media representative or equipment for a particular trial. If any such medium shall not agree on equipment, procedures and personnel, the judicial authority shall not permit that medium to have coverage at the proceeding or trial.**]** If there are multiple requests to broadcast, televise, record or photograph the same criminal proceeding or trial, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(p) To evaluate and resolve prospective problems where broadcasting, televising, recording or photographing by media of a criminal proceeding or trial will take place, and to ensure compliance with these rules during the proceeding or trial, the judicial authority who will hear the proceeding or preside over the trial may require the attendance of attorneys and media personnel at a pretrial conference.

(q) In a homicide case involving sexual assault, the broadcasting, televising, recording or photographing by the media of the trial may be permitted by the judicial authority, provided that the victim's family affirmatively consents to such coverage, that no member of the victim's family objects to such coverage, and that the victim's family have been

notified. As used in this section, ''victim's family'' shall mean a person's spouse, parent, grandparent, stepparent, aunt, uncle, niece, nephew, child, including a natural born child, stepchild and adopted child, grandchild, brother, sister, half brother or half sister or parent of a person's spouse.

COMMENTARY: The changes to subsection (d) make the following changes to the camera rules impacting criminal proceedings: (1) clarifies that the media must e-mail their requests only to a person designated by the chief court administrator to receive such requests rather than the respective administrative judge; (2) removes the requirement that the pool media organization provide a list of all news organizations seeking to participate in the pool; and (3) clarifies that the person designated by the chief court administrator will inform the following people of the request: administrative judge, presiding judge of criminal matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk and the supervising marshal. The requirement for the pool media organization to provide a list of all news organizations seeking to participate in the pool is obsolete. Current practice is that the new organizations work out all of the pooling logistics among themselves.

The change to subsection (o) simplifies the rule requiring the media to make pooling arrangements among themselves and reiterates that the judicial authority shall not mediate any disputes.

Sec. 2-4A. —Records of Bar Examining Committee

(a) All records of the bar examining committee, including transcripts, if any, of hearings conducted by the bar examining committee or the several standing committees on recommendations for admission to the bar shall not be public.

(b) Unless otherwise ordered by the court, all records that are not public shall be available only to the bar examining committee and its counsel, the statewide grievance committee and its counsel, disciplinary counsel, the client security fund committee and its counsel, a judge of the Superior Court or, with the consent of the applicant, to any other person.

COMMENTARY: The changes to this section are made for clarity.

Sec. 2-5. —Examination of Candidates for Admission

The bar examining committee shall further have the duty, power and authority to provide for the examination of candidates for admission to the bar; to determine whether such candidates are qualified as to prelaw education, legal education, good moral character and fitness to practice law; and to recommend **[**to the court**]** for admission to the bar qualified candidates.

COMMENTARY: The change to this section facilitates the option of admission to the bar in absentia.

Sec. 2-8. Qualifications for Admission

To entitle an applicant to admission to the bar, except under Section 2-13 or 2-13A of these rules, the applicant must satisfy the bar examining committee that:

(1) The applicant is a citizen of the United States or an alien lawfully residing in the United States, which shall include an individual authorized to work lawfully in the United States.

(2) The applicant is not less than eighteen years of age.

(3) The applicant is a person of good moral character, is fit to practice law, and has either passed an examination in professional responsibility which has been approved or required by the committee

or has completed a course in professional responsibility in accordance with the regulations of the committee. Any inquiries or procedures used by the bar examining committee that relate to physical or mental disability must be narrowly tailored and necessary to a determination of the applicant's current fitness to practice law, in accordance with the Americans with Disabilities Act and amendment twenty-one of the Connecticut constitution, and conducted in a manner consistent with privacy rights afforded under the federal and state constitutions or other applicable law.

(4) The applicant has met the educational requirements as may be set, from time to time, by the bar examining committee.

(5) The applicant has filed with the administrative director of the bar examining committee an application to take the examination and for admission to the bar, all in accordance with these rules and the regulations of the committee, and has paid such application fee as the committee shall from time to time determine.

(6) The applicant has passed an examination in law in accordance with the regulations of the bar examining committee.

(7) The applicant has complied with all of the pertinent rules and regulations of the bar examining committee.

(8) As an alternative to satisfying the bar examining committee that the applicant has met the committee's educational requirements, the applicant who meets all the remaining requirements of this section may, upon payment of such investigation fee as the committee shall from time to time determine, substitute proof satisfactory to the committee that: (A) the applicant has been admitted to practice before the highest court of original jurisdiction in one or more states, the District of Columbia or the Commonwealth of Puerto Rico or in one or more district courts of the United States for ten or more years and at the

time of filing the application is a member in good standing of such a bar; (B) the applicant has actually practiced law in such a jurisdiction for not less than five years during the seven year period immediately preceding the filing date of the application; and (C) the applicant intends, upon a continuing basis, actively to practice law in Connecticut and to devote the major portion of the applicant's working time to the practice of law in Connecticut.

COMMENTARY: The change to this section recognizes that one should refer to Section 2-13A for the qualifications for temporary licensing as a military spouse instead of Section 2-8.

Sec. 2-9. Certification of Applicants Recommended for Admission; Conditions of Admission

(a) The bar examining committee shall certify **[**to the clerk of the Superior Court for the Judicial District where the applicant has his or her correspondence address**]** the name<u>s</u> of **[**any such**]** applicant<u>s</u> recommended by it for admission to the bar and shall notify the applicant<u>s</u> of its decision.

(b) The bar examining committee may, in light of the health diagnosis, treatment, or drug or alcohol dependence of an applicant that has caused conduct or behavior that would otherwise have rendered the applicant currently unfit to practice law, determine that it will only recommend an applicant for admission to the bar conditional upon the applicant's compliance with conditions prescribed by the committee relevant to the health diagnosis, treatment, or drug or alcohol dependence or fitness of the applicant. Such determination shall be made after a hearing on the record is conducted by the committee or a panel thereof consisting of at least three members appointed by the chair, unless such hearing is waived by the applicant. Such conditions shall be tailored to detect recurrence of the conduct or behavior which could

render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued treatment, abstinence, or other support. The conditional admission period shall not exceed five years, unless the conditionally admitted attorney fails to comply with the conditions of admission, and the committee or the court determines, in accordance with the procedures set forth in Section 2-11, that a further period of conditional admission is necessary. The committee shall notify the applicant by mail of its decision and that the applicant must sign an agreement with the committee under oath affirming acceptance of such conditions and that the applicant will comply with them. Upon receipt of this agreement from the applicant, duly executed, the committee shall recommend the applicant for admission to the bar as provided herein. The committee shall forward a copy of the agreement to the statewide bar counsel, who shall be considered a party for purposes of defending an appeal under Section 2-11A.

COMMENTARY: The changes to this section facilitate the option of admission to the bar in absentia.

Sec. 2-10. Admission by Superior Court; Admission in Absentia

(a) Each applicant who shall be recommended for admission to the bar, except under subsection (c), shall present himself or herself to the Superior Court, or to either the Supreme Court or the Appellate Court sitting as the Superior Court, at such place and at such time as shall be prescribed by the bar examining committee, or shall be prescribed by the Supreme Court or the Appellate Court, and such court may then, upon motion, admit such person as an attorney. The administrative director shall give notice to each clerk of the names of the newly admitted attorneys. At the time such applicant is admitted as an attorney, the applicant shall be sworn as a Commissioner of the Superior Court.

(b) The administrative judge of said judicial district or a designee or the chief justice of the Supreme Court or a designee or the chief judge of the Appellate Court or a designee may deliver an address to the applicants so admitted respecting their duties and responsibilities as attorneys.

(c) The bar examining committee may, upon election by a candidate, recommend the candidate for admission in absentia. Upon the administration of the oaths taken as Commissioner of the Superior Court and for admission to the bar by an official duly qualified to administer oaths, the candidate who has taken the oaths shall be admitted to the Connecticut bar in absentia. The candidate shall complete the oaths and submit the original affidavits to the bar examining committee within 180 days from the date of certification.

COMMENTARY: The changes to this section facilitate the option of admission to the bar in absentia.

Sec. 2-13. Attorneys of Other Jurisdictions; Qualifications and Requirements for Admission

(a) Any member of the bar of another state or territory of the United States or the District of Columbia, who, after satisfying the bar examining committee that his or her educational qualifications are such as would entitle him or her to take the examination in Connecticut, and that (i) at least one jurisdiction in which he or she is a member of the bar is reciprocal to Connecticut in that it would admit a member of the bar of Connecticut to its bar without examination under provisions similar to those set out in this section or (ii) he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction, shall satisfy the committee that he or she:

(1) is of good moral character, is fit to practice law, and has either passed an examination in professional responsibility or has completed a course in professional responsibility in accordance with the regulations of the committee;

(2) has been duly licensed to practice law before the highest court of a reciprocal state or territory of the United States or in the District of Columbia if reciprocal to Connecticut, or that he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction and (A) has lawfully engaged in the practice of law as the applicant's principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, or (B) if the applicant has taken the bar examinations of Connecticut and failed to pass them, the applicant has lawfully engaged in the practice of law as his or her principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, provided that such five years of practice shall have occurred subsequent to the applicant's last failed Connecticut examination; and

(3) is a citizen of the United States or an alien lawfully residing in the United States, which shall include an individual authorized to work lawfully in the United States, may be admitted **[**by the court**]** as an attorney without examination upon written application and the payment of such fee as the committee shall from time to time determine, upon compliance with the following requirements. Such application, duly verified, shall be filed with the administrative director of the committee and shall set forth the applicant's qualifications as hereinbefore provided. The following affidavits shall be filed by the person completing the affidavit:

(A) affidavits from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law and supporting, to the satisfaction of the committee, his or her practice of law as defined under subdivision (2) of this subsection;

(B) affidavits from two members of the bar of Connecticut of at least five years' standing, certifying that the applicant is of good moral character and is fit to practice law; and

(C) an affidavit from the applicant, certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred, or has ever resigned from the practice of law, and, if so, setting forth the circumstances concerning such action. Such an affidavit is not required if it has been furnished as part of the application form prescribed by the committee.

(b) For the purpose of this rule, the ''practice of law'' shall include the following activities, if performed after the date of the applicant's admission to the jurisdiction in which the activities were performed, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

(1) representation of one or more clients in the practice of law;

(2) service as a lawyer with a state, federal, or territorial agency, including military services;

(3) teaching law at an accredited law school, including supervision of law students within a clinical program;

(4) service as a judge in a state, federal, or territorial court of record;

(5) service as a judicial law clerk;

(6) service as authorized house counsel;

(7) service as authorized house counsel in Connecticut before July 1, 2008, or while certified pursuant to Section 2-15A; or

(8) any combination of the above.

COMMENTARY: The changes to this section facilitate the option of admission to the bar in absentia.

Sec. 2-15A. —Authorized House Counsel

(a) **Purpose**

The purpose of this section is to clarify the status of house counsel as authorized house counsel, as defined herein, and to confirm that such counsel are subject to regulation by the judges of the Superior Court. Notwithstanding any other section of this chapter relating to admission to the bar, this section shall authorize attorneys licensed to practice in jurisdictions other than Connecticut to be permitted to undertake these activities, as defined herein, in Connecticut without the requirement of taking the bar examination so long as they are exclusively employed by an organization.

(b) **Definitions**

(1) **Authorized House Counsel.** An ''authorized house counsel'' is any person who:

(A) is a member in good standing of the entity governing the practice of law of each state (other than Connecticut) or territory of the United States, or the District of Columbia or any foreign jurisdiction in which the member is licensed;

(B) has been certified on recommendation of the bar examining committee in accordance with this section;

(C) agrees to abide by the rules regulating members of the Connecticut bar and submit to the jurisdiction of the Statewide Grievance Committee and the Superior Court; and

(D) is, at the date of application for registration under this rule, employed in the state of Connecticut by an organization or relocating to the state of Connecticut in furtherance of such employment within

three months prior to starting work in the state of Connecticut or three months after the applicant begins work in the state of Connecticut of such application under this section and receives or shall receive compensation for activities performed for that business organization.

(2) **Organization.** An ''organization'' for the purpose of this rule is a corporation, partnership, association, or employer sponsored benefit plan or other legal entity (taken together with its respective parents, subsidiaries, and affiliates) that is not itself engaged in the practice of law or the rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee for the representation or advice other than to entities comprising such organization for the activities of the authorized house counsel.

(c) **Activities**

(1) **Authorized Activities.** An authorized house counsel, as an employee of an organization, may provide legal services in the state of Connecticut to the organization for which a registration pursuant to subsection (d) is effective, provided, however, that such activities shall be limited to:

(A) the giving of legal advice to the directors, officers, employees, trustees, and agents of the organization with respect to its business and affairs;

(B) negotiating and documenting all matters for the organization; and

(C) representation of the organization in its dealings with any administrative agency, tribunal or commission having jurisdiction; provided, however, authorized house counsel shall not be permitted to make appearances as counsel before any state or municipal administrative tribunal, agency, or commission, and shall not be permitted to make appearances in any court of this state, unless the attorney is specially

admitted to appear in a case before such tribunal, agency, commission or court.

(2) **Disclosure.** Authorized house counsel shall not represent themselves to be members of the Connecticut bar or commissioners of the Superior Court licensed to practice law in this state. Such counsel may represent themselves as Connecticut authorized house counsel.

(3) **Limitation on Representation.** In no event shall the activities permitted hereunder include the individual or personal representation of any shareholder, owner, partner, officer, employee, servant, or agent in any matter or transaction or the giving of advice therefor unless otherwise permitted or authorized by law, code, or rule or as may be permitted by subsection (c) (1). Authorized house counsel shall not be permitted to prepare legal instruments or documents on behalf of anyone other than the organization employing the authorized house counsel.

(4) **Limitation on Opinions to Third Parties.** An authorized house counsel shall not express or render a legal judgment or opinion to be relied upon by any third person or party other than legal opinions rendered in connection with commercial, financial or other business transactions to which the authorized house counsel's employer organization is a party and in which the legal opinions have been requested from the authorized house counsel by another party to the transaction. Nothing in this subsection (c) (4) shall permit authorized house counsel to render legal opinions or advice in consumer transactions to customers of the organization employing the authorized house counsel.

(5) **Pro Bono Legal Services.** Notwithstanding anything to the contrary in this section, an authorized house counsel may participate in the provision of any and all legal services pro bono publico in

Connecticut offered under the supervision of an organized legal aid society or state/local bar association project, or of a member of the Connecticut bar who is also working on the pro bono representation.

(d) **Registration**

(1) **Filing with the Bar Examining Committee.** The bar examining committee shall investigate whether the applicant is at least eighteen years of age and is of good moral character, consistent with the requirement of Section 2-8 (3) regarding applicants for admission to the bar. In addition, the applicant shall file with the committee, and the committee shall consider, the following:

(A) a certificate from each entity governing the practice of law of a state or territory of the United States, or the District of Columbia or any foreign jurisdiction in which the applicant is licensed to practice law certifying that the applicant is a member in good standing;

(B) a sworn statement by the applicant:

(i) that the applicant has read and is familiar with the Connecticut Rules of Professional Conduct for attorneys and Chapter 2 (Attorneys) of the Superior Court Rules, General Provisions, and will abide by the provisions thereof;

(ii) that the applicant submits to the jurisdiction of the Statewide Grievance Committee and the Superior Court for disciplinary purposes, and authorizes notification to or from the entity governing the practice of law of each state or territory of the United States, or the District of Columbia in which the applicant is licensed to practice law of any disciplinary action taken against the applicant;

(iii) listing any jurisdiction in which the applicant is now or ever has been licensed to practice law; and

(iv) disclosing any disciplinary sanction or pending proceeding pertaining or relating to his or her license to practice law including, but not limited to, reprimand, censure, suspension or disbarment, or whether the applicant has been placed on inactive status;

(C) a certificate from an organization certifying that it is qualified as set forth in subsection (b) (2); that it is aware that the applicant is not licensed to practice law in Connecticut; and that the applicant is employed or about to be employed in Connecticut by the organization as set forth in subsection (b) (1) (D);

(D) an appropriate application pursuant to the regulations of the bar examining committee;

(E) remittance of a filing fee to the bar examining committee as prescribed and set by that committee; and

(F) an affidavit from each of two members of the Connecticut bar, who have each been licensed to practice law in Connecticut for at least five years, certifying that the applicant is of good moral character and that the applicant is employed or will be employed by an organization as defined above in subsection (b) (2).

(2) **Certification.** Upon recommendation of the bar examining committee, the **[**court may certify the**]** applicant shall be certified as authorized house counsel in absentia. Upon the administration of the oath taken as authorized house counsel by an official duly qualified to administer oaths, the applicant who has taken the oath shall be certified as authorized house counsel in absentia. The applicant shall complete the oath and submit the original affidavit to the bar examining committee within 180 days from the date of certification. The committee **[**and**]** shall cause notice of such certification to be published in the Connecticut Law Journal.

(3) **Annual Client Security Fund Fee.** Individuals certified pursuant to this section shall comply with the requirements of Sections 2-68

and 2-70 of this chapter, including payment of the annual fee and shall pay any other fees imposed on attorneys by court rule.

(4) **Annual Registration.** Individuals certified pursuant to this section shall register annually with the Statewide Grievance Committee in accordance with Sections 2-26 and 2-27 (d) of this chapter.

(e) **Termination or Withdrawal of Registration**

(1) **Cessation of Authorization To Perform Services.** Authorization to perform services under this rule shall cease upon the earliest of the following events:

(A) the termination or resignation of employment with the organization for which registration has been filed, provided, however, that if the authorized house counsel shall commence employment with another organization within thirty days of the termination or resignation, authorization to perform services under this rule shall continue upon the filing with the bar examining committee of a certificate as set forth in subsection (d) (1) (C);

(B) the withdrawal of registration by the authorized house counsel;

(C) the relocation of an authorized house counsel outside of Connecticut for a period greater than 180 consecutive days; or

(D) the failure of authorized house counsel to comply with any applicable provision of this rule.

Notice of one of the events set forth in subsections (e) (1) (A) through (C) or a new certificate as provided in subsection (e) (1) (A) must be filed with the bar examining committee by the authorized house counsel within thirty days after such action. Failure to provide such notice by the authorized house counsel shall be a basis for discipline pursuant to the Rules of Professional Conduct for attorneys.

(2) **Notice of Withdrawal of Authorization.** Upon receipt of the notice required by subsection (e) (1), the bar examining committee shall forward a request to the statewide bar counsel that the authorization under this chapter be revoked. Notice of the revocation shall be mailed by the statewide bar counsel to the authorized house counsel and the organization employing the authorized house counsel.

(3) **Reapplication.** Nothing herein shall prevent an individual previously authorized as house counsel to reapply for authorization as set forth in subsection (d).

(f) **Discipline**

(1) **Termination of Authorization by Court.** In addition to any appropriate proceedings and discipline that may be imposed by the Statewide Grievance Committee, the Superior Court may, at any time, with cause, terminate an authorized house counsel's registration, temporarily or permanently.

(2) **Notification to Other States.** The statewide bar counsel shall be authorized to notify each entity governing the practice of law in the state or territory of the United States, or the District of Columbia, in which the authorized house counsel is licensed to practice law, of any disciplinary action against the authorized house counsel.

(g) **Transition**

(1) **Preapplication Employment in Connecticut.** The performance of an applicant's duties as an employee of an organization in Connecticut prior to the effective date of this rule shall not be grounds for the denial of registration of such applicant if application for registration is made within six months of the effective date of this rule.

(2) **Immunity from Enforcement Action.** An authorized house counsel who has been duly registered under this rule shall not be

subject to enforcement action for the unlicensed practice of law for acting as counsel to an organization prior to the effective date of this rule.

COMMENTARY: The changes to this section facilitate the option of admission to the bar in absentia.

Sec. 2-16. —Attorney Appearing Pro Hac Vice

An attorney who is in good standing at the bar of another state, the District of Columbia, or the Commonwealth of Puerto Rico, may, upon special and infrequent occasion and for good cause shown upon written application on one of the following forms prescribed by the chief court administrator, form JD-CL-141, Application for Permission for Attorney to Appear Pro Hac Vice in a Court Case, or, form JD-CL-142, Application for Permission for Attorney to Appear Pro Hac Vice before a Municipal or State Agency, Commission, Board or Tribunal, presented by a member of the bar of this state, be permitted in the discretion of the court to participate to such extent as the court may prescribe in the presentation of a cause or appeal in any state court or a proceeding before any municipal or state agency, commission, board or tribunal (hereinafter referred to as ''proceeding'') in this state; provided, however, that (1) such application shall be accompanied by the affidavit of the applicant, on form JD-CL-143, Affidavit of Attorney Seeking Permission to Appear Pro Hac Vice, (A) providing the full legal name of the applicant with contact information, including firm name, business mailing address, telephone number and e-mail address, as applicable, **[**(A)**]** (B) certifying whether such applicant has a grievance pending against him or her in any other jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred, or otherwise disciplined, or has ever resigned from the practice

of law and, if so, setting forth the circumstances concerning such action, **[**(B)**]** (C) certifying that the applicant has paid the client security fund fee due for the calendar year in which the application has been made, **[**(C)**]** (D) designating the chief clerk of the Superior Court for the judicial district in which the attorney will be appearing as his or her agent upon whom process and service of notice may be served, **[**(D)**]** (E) agreeing to register with the Statewide Grievance Committee in accordance with the provisions of this chapter while appearing in the matter in this state and for two years after the completion of the matter in which the attorney appeared, and to notify the Statewide Grievance Committee of the expiration of the two year period, **[**(E)**]** (F) identifying the number of times the attorney has appeared pro hac vice in the Superior Court or in any other proceedings of this state since the attorney first appeared pro hac vice in this state, listing each such case or proceeding by name and docket number, as applicable, and **[**(F)**]** (G) providing any previously assigned juris number, **[**and**]** (2) the filing fee shall be paid with the court for the application submitted pursuant to General Statutes § 52-259 (i) unless Section 62-8A (a) applies and (3) unless excused by the judicial authority, a member of the bar of this state must be present at all proceedings, including depositions in a proceeding, and must sign all pleadings, briefs and other papers filed with the court, local or state administrative agency, commission, board or tribunal, and assume full responsibility for them and for the conduct of the cause or proceeding and of the attorney to whom such privilege is accorded. **[**Any such application shall be made on a form prescribed by the chief court administrator.**]** Where feasible, the application shall be made to the judge before whom such case is likely to be tried. If not feasible, or if no case is pending before

the Superior Court, the application shall be made to the administrative judge in the judicial district where the matter is to be tried or the proceeding is to be conducted. Good cause for according such privilege shall be limited to facts or circumstances affecting the personal or financial welfare of the client and not the attorney. Such facts may include a showing that by reason of a longstanding attorney-client relationship predating the cause of action or subject matter of the litigation at bar, or proceeding, the attorney has acquired a specialized skill or knowledge with respect to the client's affairs important to the trial of the cause or presentation of the proceeding, or that the litigant is unable to secure the services of Connecticut counsel. Upon the granting of an application to appear pro hac vice, the clerk of the court in which the application is granted shall immediately notify the Statewide Grievance Committee Superior Court Operations designee of such action. Any person granted permission to appear in a cause, appeal or proceeding pursuant to this section shall comply with the requirements of Sections 2-68 and 2-70 and General Statutes § 51-81b and shall pay such fee and tax when due as prescribed by those sections for each year such person appears in the matter. If the clerk for the judicial district or appellate court in which the matter is pending is notified that such person has failed to pay the fee as required by **[**this section**]** Sections 2-68 and 2-70, the court shall determine after a hearing the appropriate sanction, which may include termination of the privilege of appearing in the cause, appeal or proceeding.

COMMENTARY: The changes to this section are intended to conform to the provisions of Section 62-8A.

Sec. 2-17. Foreign Legal Consultants; Licensing Requirements

Upon recommendation of the bar examining committee, **[**the court may license**]** an applicant may be licensed to practice as a foreign legal consultant, without examination, **[**an applicant**]** who:

(1) has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and has engaged in the practice of law in that country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in that country, for a period of not less than five of the seven years immediately preceding the date of application;

(2) possesses the good moral character and fitness to practice law requisite for a member of the bar of this court; and

(3) is at least twenty-six years of age.

COMMENTARY: The changes to this section facilitate the option of admission to the bar in absentia.

Sec. 2-27. Clients' Funds; Attorney Registration

(a) Consistent with the requirement of Rule 1.15 of the Rules of Professional Conduct, each attorney or law firm shall maintain, separate from the attorney's or the firm's personal funds, one or more accounts accurately reflecting the status of funds handled by the attorney or firm as fiduciary or attorney, and shall not use such funds for any unauthorized purpose.

(b) Each attorney or law firm maintaining one or more trust accounts as defined in Rule 1.15 of the Rules of Professional Conduct and Section 2-28 (b) shall keep records of the maintenance and disposition of all funds of clients or of third persons held by the attorney or firm in a fiduciary capacity from the time of receipt to the time of final distribution. Each attorney or law firm shall retain the records required

by Rule 1.15 of the Rules of Professional Conduct for a period of seven years after termination of the representation.

(c) Such books of account and statements of reconciliation, and any other records required to be maintained pursuant to Rule 1.15 of the Rules of Professional Conduct, shall be made available upon request of the Statewide Grievance Committee or its counsel, or the disciplinary counsel for review, examination or audit upon receipt of notice by the Statewide Grievance Committee of an overdraft notice as provided by Section 2-28 (f). Upon the filing of a grievance complaint or a finding of probable cause, such records shall be made available upon request of the Statewide Grievance Committee, its counsel or the disciplinary counsel for review or audit.

(d) Each attorney shall register with the Statewide Grievance Committee, on a form devised by the committee, the address of the attorney's office or offices maintained for the practice of law, the attorney's office e-mail address and business telephone number, the name and address of every financial institution with which the attorney maintains any account in which the funds of more than one client are kept and the identification number of any such account. Such registrations will be made on an annual basis and at such time as the attorney changes his or her address or addresses or location or identification number of any such trust account in which the funds of more than one client are kept. The registration forms filed pursuant to this subsection and pursuant to Section 2-26 shall not be public; however, all information obtained by the Statewide Grievance Committee from these forms shall be public, except the following: trust account identification numbers; the attorney's home address, unless no office address is registered and then only if the home address is part of the public record of a grievance complaint as defined in Section 2-50 or the attorney

uses the attorney's personal juris number to appear in a matter in this state; the attorney's office e-mail address; and the attorney's birth date. Unless otherwise ordered by the court, all nonpublic information obtained from these forms shall be available only to the Statewide Grievance Committee and its counsel, the reviewing committees, the grievance panels and their counsel, the bar examining committee, the standing committee on recommendations for admission to the bar, disciplinary counsel, the client security fund committee and its counsel, a judge of the Superior Court, a judge of the United States District Court for the District of Connecticut, any grievance committee or other disciplinary authority of the United States District Court for the District of Connecticut or, with the consent of the attorney, to any other person. Excluding trust account identification numbers, nonpublic information obtained from these forms shall be available to the Department of Revenue Services in connection with the collection of the occupational tax on attorneys pursuant to General Statutes § 51-81b. In addition, the trust account identification numbers on the registration forms filed pursuant to Section 2-26 and this section shall be available to the organization designated by the judges of the Superior Court to administer the IOLTA program pursuant to Rule 1.15 of the Rules of Professional Conduct. The registration requirements of this subsection shall not apply to judges of the Supreme, Appellate or Superior Courts, judge trial referees, family support magistrates, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges.

(e) The Statewide Grievance Committee or its counsel may conduct random inspections and audits of accounts maintained pursuant to Rule 1.15 of the Rules of Professional Conduct to determine whether

such accounts are in compliance with the rule and this section. If any random inspection or audit performed under this subsection discloses an apparent violation of this section or the Rules of Professional Conduct, the matter may be referred to a grievance panel for further investigation or to the disciplinary counsel for presentment to the Superior Court. Any attorney whose accounts are selected for inspection or audit under this section shall fully cooperate with the inspection or audit, which cooperation shall not be construed to be a violation of Rule 1.6 (a) of the Rules of Professional Conduct. Any records, documents or information obtained or produced pursuant to a random inspection or audit shall remain confidential unless and until a presentment is initiated by the disciplinary counsel alleging a violation of Rule 1.15 of the Rules of Professional Conduct or of this section, or probable cause is found by the grievance panel, the Statewide Grievance Committee or are viewing committee. Contemporaneously with the commencement of a presentment or the filing of a grievance complaint, notice shall be given in writing by the Statewide Grievance Committee to any client or third person whose identity may be publicly disclosed through the disclosure of records obtained or produced in accordance with this subsection. Thereafter, public disclosure of such records shall be subject to the client or third person having thirty days from the issuance of the notice to seek a court order restricting publication of any such records disclosing confidential information. During the thirty day period, or the pendency of any such motion, any document filed with the court or as part of a grievance record shall refer to such clients or third persons by pseudonyms or with appropriate redactions, unless otherwise ordered by the court.

(f) Violation of subsection (a), (b) or (c) of this section shall constitute misconduct. An attorney who fails to register in accordance with subsection (d) shall be administratively suspended from the practice of law in this state pursuant to Section 2-27B.

COMMENTARY: The change to this section authorizes the Department of Revenue Services to receive nonpublic information, excluding trust account identification numbers, obtained from the attorney registration process in connection with the collection of the occupational tax on attorneys pursuant to General Statutes § 51-81b.

Sec. 2-44A. Definition of the Practice of Law

(a) General Definition: The practice of law is ministering to the legal needs of another person and applying legal principles and judgment to the circumstances or objectives of that person. This includes, but is not limited to:

(1) Holding oneself out in any manner as an attorney, lawyer, counselor, advisor or in any other capacity which directly or indirectly represents that such person is either (a) qualified or capable of performing or (b) is engaged in the business or activity of performing any act constituting the practice of law as herein defined.

(2) Giving advice or counsel to persons concerning or with respect to their legal rights or responsibilities or with regard to any matter involving the application of legal principles to rights, duties, obligations or liabilities.

(3) Drafting any legal document or agreement involving or affecting the legal rights of a person.

(4) Representing any person in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in any administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.

(5) Giving advice or counsel to any person, or representing or purporting to represent the interest of any person, in a transaction in which an interest in property is transferred where the advice or counsel, or the representation or purported representation, involves (a) the preparation, evaluation, or interpretation of documents related to such transaction or to implement such transaction or (b) the evaluation or interpretation of procedures to implement such transaction, where such transaction, documents, or procedures affect the legal rights, obligations, liabilities or interests of such person, and

(6) Engaging in any other act which may indicate an occurrence of the authorized practice of law in the state of Connecticut as established by case law, statute, ruling or other authority.

''Documents'' includes, but is not limited to, contracts, deeds, easements, mortgages, notes, releases, satisfactions, leases, options, articles of incorporation and other corporate documents, articles of organization and other limited liability company documents, partnership agreements, affidavits, prenuptial agreements, wills, trusts, family settlement agreements, powers of attorney, notes and like or similar instruments; and pleadings and any other papers incident to legal actions and special proceedings.

The term ''person'' includes a natural person, corporation, company, partnership, firm, association, organization, society, labor union, business trust, trust, financial institution, governmental unit and any other group, organization or entity of any nature, unless the context otherwise dictates.

The term ''Connecticut lawyer'' means a natural person who has been duly admitted to practice law in this state and whose privilege to do so is then current and in good standing as an active member of the bar of this state.

(b) Exceptions. Whether or not it constitutes the practice of law, the following activities by any person are permitted:

(1) Selling legal document forms previously approved by a Connecticut lawyer in any format.

(2) Acting as a lay representative authorized by administrative agencies or in administrative hearings solely before such agency or hearing where:

(A) Such services are confined to representation before such forum or other conduct reasonably ancillary to such representation; and

(B) Such conduct is authorized by statute, or the special court, department or agency has adopted a rule expressly permitting and regulating such practice.

(3) Serving in a neutral capacity as a mediator, arbitrator, conciliator or facilitator.

(4) Participating in labor negotiations, arbitrations, or conciliations arising under collective bargaining rights or agreements.

(5) Providing clerical assistance to another to complete a form provided by a court for the protection from abuse, harassment and violence when no fee is charged to do so.

(6) Acting as a legislative lobbyist.

(7) Serving in a neutral capacity as a clerk or a court employee providing information to the public.

(8) Performing activities which are preempted by federal law.

(9) Performing statutorily authorized services as a real estate agent or broker licensed by the state of Connecticut.

(10) Preparing tax returns and performing any other statutorily authorized services as a certified public accountant, enrolled IRS agent, public accountant, public bookkeeper, or tax preparer.

(11) Performing such other activities as the courts of Connecticut have determined do not constitute the unlicensed or unauthorized practice of law.

(12) Undertaking self-representation, or practicing law authorized by a limited license to practice.

(c) Remote Practice: To the extent that a lawyer is physically present in this jurisdiction and remotely engages in the practice of law as authorized under the laws of another United States jurisdiction in which the lawyer is admitted, such conduct does not constitute the practice of law in this jurisdiction.

[(c)**]** (d) Nonlawyer Assistance: Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision of a lawyer in compliance with Rule 5.3 of the Rules of Professional Conduct.

[(d)**]** (e) General Information: Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.

[(e)**]** (f) Governmental Agencies: Nothing in this rule shall affect the ability of a governmental agency to carry out its responsibilities as provided by law.

[(f)**]** (g) Professional Standards: Nothing in this rule shall be taken to define or affect standards for civil liability or professional responsibility.

[(g)**]** (h) Unauthorized Practice: If a person who is not authorized to practice law is engaged in the practice of law, that person shall be subject to the civil and criminal penalties of this jurisdiction.

COMMENTARY: The changes to this section and to Rule 5.5 of the Rules of Professional Conduct address the issue of remote practice and provide that to the extent that a lawyer is physically present in Connecticut and remotely engaged in the practice of law under the

law of another recognized jurisdiction in which the lawyer is admitted, such conduct does not constitute the practice of law in Connecticut.

Sec. 2-55A. Retirement of Attorney—Permanent

(a) An attorney who is admitted to the bar in the state of Connecticut and is not the subject of any pending disciplinary investigation may submit a written request on a form approved by the Office of the Chief Court Administrator to the statewide bar counsel for permanent retirement under this section. Upon receipt of the request, the statewide bar counsel shall review it and, if it is found that the attorney is eligible for retirement under this section, shall grant the request and notify the attorney and the clerk for the judicial district of Hartford. Retirement shall not constitute removal from the bar or the roll of attorneys, but it shall be noted on the roll of attorneys kept by the clerk for the judicial district of Hartford. If granted, the attorney shall no longer be eligible to practice law as an attorney admitted in the state of Connecticut.

(b) An attorney who has retired pursuant to this section shall thereafter be exempt from the registration requirements set forth in Sections 2-26 and 2-27 (d) and from payment of the client security fund fee set forth in Section 2-70 (a).

(c) An attorney who has retired pursuant to this section and thereafter wishes to be eligible to practice law again in the state of Connecticut must apply for admission to the bar pursuant to Section**[**s**]** 2-8, **[**or**]** 2-13 or 2-13A.

(d) Retirement pursuant to this section shall not be a bar to the initiation, investigation and pursuit of disciplinary complaints filed on or subsequent to the date of retirement.

COMMENTARY: The changes to this section acknowledge that a retired attorney who is a military spouse may apply for temporary licensing under Section 2-13A.

Sec. 3-9. Withdrawal of Appearance; Duration of Appearance

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon the filing of a new appearance that is stated to be in place of the appearance on file in accordance with Section 3-8. Appropriate entries shall be made in the court file. An attorney or party whose appearance is deemed to have been withdrawn may file an appearance for the limited purpose of filing an objection to the in place of appearance at any time.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) In addition to the grounds set forth in subsections (a), (b), and (d), a lawyer who represents a party or parties on a limited basis in accordance with Section 3-8 (b) and has completed his or her representation as defined in the limited appearance, shall file a certificate of completion of limited appearance on Judicial Branch form JD-CL-122. The certificate shall constitute a full withdrawal of a limited appearance. Copies of the certificate must be served in accordance with Sections 10-12 through 10-17 on the client, and all attorneys and self-represented parties of record.

(d) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation,

provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

(e) Except as provided in subsections (a), (b), (c) and (d), no attorney shall withdraw his or her appearance in any civil, criminal, family, juvenile or other matter after it has been entered upon the record of the court without the leave of the court.

(f) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation supervision or probation supervision with residential placement, family with service needs supervision, any commitment to the Commissioner of the Department of Children and Families pursuant to General Statutes § 46b-129 or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the attorney remains under contract to the Office of the Chief Public Defender to represent parties in child protection matters, the parent appears at the first hearing on the termination petition and qualifies for appointed counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is

granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20 or 35a-20A, and with motions for review of permanency plans, revocations or postjudgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.

COMMENTARY: The change to subsection (f) adds a reference to Section 35a-20A, which was adopted to take effect on January 1, 2022, so that an attorney's representation of a client in connection with appeals from certain juvenile matters is subject to Sections 35a-20 or 35a-20A, as applicable.

(NEW) Sec. 5-12. Objection to the Use of a Peremptory Challenge

(a) **Policy and Purpose.** The purpose of this rule is to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

(b) **Objection.** A party may object to the use of a peremptory challenge to raise a claim of improper bias. The court may also raise this objection on its own. The objection shall be made by simple citation to this rule, and any further discussion shall be conducted outside the presence of the prospective juror.

(c) **Response.** Upon objection to the exercise of a peremptory challenge pursuant to this rule, the party exercising the peremptory challenge shall articulate the reason that the peremptory challenge has been exercised.

(d) **Determination.** The court shall then evaluate from the perspective of an objective observer, as defined in subsection (e) herein, the reason given to justify the peremptory challenge in light of the totality of

the circumstances. If the court determines that the use of the challenge against the prospective juror, as reasonably viewed by an objective observer, legitimately raises the appearance that the prospective juror's race or ethnicity was a factor in the challenge, then the challenge shall be disallowed and the prospective juror shall be seated. If the court determines that the use of the challenge does not raise such an appearance, then the challenge shall be permitted and the prospective juror shall be excused. The court need not find purposeful discrimination to disallow the peremptory challenge. The court must explain its ruling on the record. A party whose peremptory challenge has been disallowed pursuant to this rule shall not be prohibited from attempting to challenge peremptorily the prospective juror for any other reason or from conducting further voir dire of the prospective juror.

(e) **Nature of Observer**. For the purpose of this rule, an objective observer: (1) is aware that purposeful discrimination, and implicit, institutional, and unconscious biases, have historically resulted in the unfair exclusion of potential jurors on the basis of their race, or ethnicity; and (2) is deemed to be aware of and to have given due consideration to the circumstances set forth in subsection (f) herein.

(f) **Circumstances considered.** In making its determination, the circumstances the court should consider include, but are not limited to, the following:

(1) the number and types of questions posed to the prospective juror including consideration of whether the party exercising the peremptory challenge failed to question the prospective juror about the alleged concern or the questions asked about it;

(2) whether the party exercising the peremptory challenge asked significantly more questions or different questions of the prospective

juror, unrelated to his testimony, than were asked of other prospective jurors;

(3) whether other prospective jurors provided similar answers but were not the subject of a peremptory challenge by that party;

(4) whether a reason might be disproportionately associated with a race or ethnicity;

(5) if the party has used peremptory challenges disproportionately against a given race or ethnicity in the present case, or has been found by a court to have done so in a previous case;

(6) whether issues concerning race or ethnicity play a part in the facts of the case to be tried;

(7) whether the reason given by the party exercising the peremptory challenge was contrary to or unsupported by the record.

(g) **Reasons Presumptively Invalid.** Because historically the following reasons for peremptory challenges have been associated with improper discrimination in jury selection in Connecticut or may be influenced by implicit or explicit bias, the following are presumptively invalid reasons for a peremptory challenge:

(1) having prior contact with law enforcement officers;

(2) expressing a distrust of law enforcement or a belief that law enforcement officers engage in racial profiling;

(3) having a close relationship with people who have been stopped, arrested, or convicted of a crime;

(4) living in a high crime neighborhood;

(5) having a child outside of marriage;

(6) receiving state benefits;

(7) not being a native English speaker; and

(8) having been a victim of a crime.

The presumptive invalidity of any such reason may be overcome as to the use of a peremptory challenge on a prospective juror if the party exercising the challenge demonstrates to the court's satisfaction that the reason, viewed reasonably and objectively, is unrelated to the prospective juror's race or ethnicity and, while not seen by the court as sufficient to warrant excusal for cause, legitimately bears on the prospective juror's ability to be fair and impartial in light of particular facts and circumstances at issue in the case.

(h) **Reliance on Conduct.** The following reasons for peremptory challenges also have historically been associated with improper discrimination in jury selection: allegations that the prospective juror was inattentive, failing to make eye contact or exhibited a problematic attitude, body language, or demeanor. If any party intends to offer one of these reasons or a similar reason as a justification for a peremptory challenge, that party must provide reasonable notice to the court and the other parties so the behavior can be verified and addressed in a timely manner. A party who intends to exercise a peremptory challenge for reasons relating to those listed above in subsection (g) shall, as soon as practicable, notify the court and the other party in order to determine whether such conduct was observed by the court or that party. If the alleged conduct is not corroborated by observations of the court or the objecting party, then a presumption of invalidity shall apply but may be overcome as set forth in subsection (g).

(i) **Review Process**. The chief justice shall appoint an individual or individuals to monitor issues relating to this rule.

COMMENTARY: This new rule is intended to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

PROPOSED AMENDMENTS TO THE CIVIL RULES

Sec. 13-8. —Objections to Interrogatories

(a) The party objecting to any interrogatory shall: (1) set forth each interrogatory; (2) specifically state the reasons for the objection; and (3) state whether any responsive information is being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them, and filed with the court pursuant to Section 13-7. No objection may be filed with respect to interrogatories which have been set forth in Forms 201, 202, 203, 208, 210, 212, 213 **[**and/or**]**, 214, 218, 220 and/or 221 of the rules of practice for use in connection with Section 13-6.

(b) To the extent a party withholds responsive information based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (a) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(c) No objections to interrogatories shall be placed on the short calendar list until an affidavit by either counsel is filed certifying that bona fide attempts have been made to resolve the differences concerning the subject matter of the objection and that counsel have been unable to reach an agreement. The affidavit shall set forth the date of the objection, the name of the party who filed the objection and the name of the party to whom the objection was addressed. The affidavit shall also recite the date, time and place of any conference held to resolve the differences and the names of all persons participating therein or, if no conference has been held, the reasons for the failure

to hold such a conference. If any objection to an interrogatory is overruled, the objecting party shall answer the interrogatory, and serve the answer within twenty days after the judicial authority ruling unless otherwise ordered by the judicial authority.

(d) An interrogatory otherwise proper is not objectionable merely because it involves more than one fact or relates to the application of law to facts.

COMMENTARY: The changes in subsection (a) add the standard interrogatory forms for medical malpractice, Forms 218, 220 and 221, to the list of standard interrogatories to which objections may not be filed.

Sec. 13-10. —Responses to Requests for Production; Objections

(a) The party to whom the request is directed or such party's attorney shall serve a written response, which may be in electronic format, within sixty days after the date of certification of service, in accordance with Sections 10-12 through 10-17, of the request or, if applicable, the notice of requests for production on the responding party or within such shorter or longer time as the judicial authority may allow, unless:

(1) Counsel and/or self-represented parties file with the court a written stipulation extending the time within which responses may be served; or

(2) Upon motion, the court allows a longer time; or

(3) Objections to the requests for production and the reasons therefor are filed and served within the sixty day period.

(b) All responses: (1) shall repeat immediately before the response the request for production being responded to; and (2) shall state with respect to each item or category that inspection and related activities

will be permitted as requested, unless the request or any part thereof is objected to.

(c) Where a request calling for submission of copies of documents is not objected to, the party responding to the request shall produce those copies with the response served upon all parties.

(d) Objection by a party to certain parts of a request shall not relieve that party of the obligation to respond to those portions to which that party has not objected within the sixty day period.

(e) A party objecting to one or more of the requests for production shall file an objection in accordance with subsection (f) of this section.

(f) A party who objects to any request or portion of a request shall: (1) set forth the request objected to; (2) specifically state the reasons for the objection; and (3) state whether any responsive materials are being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them and filed with the court.

(g) To the extent a party withholds any responsive material based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (f) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(h) No objection may be filed with respect to requests for production set forth in Forms 204, 205, 206, 209, 211, 215, **[**and/or**]** 216, 219, 222 and/or 223 of the rules of practice for use in connection with Section 13-9.

(i) No objection to any request for production shall be placed on the short calendar list until an affidavit by counsel or self-represented parties is filed certifying that they have made good faith attempts to

resolve the objection and that counsel and/or self-represented parties have been unable to reach an agreement. The affidavit shall set forth: (1) the date of the objection; (2) the name of the party who filed the objection and to whom the objection was addressed; (3) the date, time and place of any conference held to resolve the differences; and (4) the names of all conference participants. If no conference has been held, the affidavit shall also set forth the reasons for the failure to hold such a conference.

(j) If an objection to any part of a request for production is overruled, the objecting party shall comply with the request at a time set by the judicial authority.

(k) The party serving the request or the notice of request for production may move for an order under Section 13-14 with respect to any failure to respond by the party to whom the request or notice is addressed.

COMMENTARY: The changes in subsection (h) add the standard requests for production forms for medical malpractice, Forms 219, 222 and 223, to the list of standard requests for production to which objections may not be filed.

Sec. 16-5. Peremptory Challenges

(a) Each party may challenge peremptorily the number of jurors which each is entitled to challenge by law. Where the judicial authority determines a unity of interests exists, several plaintiffs or several defendants may be considered as a single party for the purpose of making challenges, or the judicial authority may allow additional peremptory challenges and permit them to be exercised separately or jointly. For the purposes of this section, a ''unity of interest'' means that the interests of the several plaintiffs or the several defendants are substantially similar. A unity of interest shall be found to exist

among parties who are represented by the same attorney or law firm. In addition, there shall be a presumption that a unity of interest exists among parties where no cross claims or apportionment complaints have been filed against one another. In all civil actions, the total number of peremptory challenges allowed to the plaintiff or plaintiffs shall not exceed twice the number of peremptory challenges allowed to the defendant or defendants, and the total number of peremptory challenges allowed to the defendant or defendants shall not exceed twice the number of peremptory challenges allowed to the plaintiff or plaintiffs.

(b) Pursuant to the provisions of Section 5-12, a party or the court on its own may object to the use of a peremptory challenge to raise a claim of improper bias.

COMMENTARY: The change to this section includes a reference to the procedure to object to peremptory challenges under new Section 5-12, to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

Sec. 23-1. Arbitration; Confirming, Correcting or Vacating Award

In proceedings brought for confirming, vacating or correcting an arbitration award under **[**General Statutes §§ 52-417, 52-418 or 52-419**]** chapters 862 and 909 of the General Statutes, the court or judge to whom the application is made shall cause to be issued a citation directing the adverse party or parties in the arbitration proceeding to appear on a day certain and show cause, if any there be, why the application should not be granted.

COMMENTARY: The changes to this section are intended to ensure that consistent standard procedures will be used in proceedings brought for confirming, vacating or correcting an arbitration award.

PROPOSED AMENDMENTS TO THE JUVENILE RULES

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) ''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) ''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.

[(d) ''Detention'' means a secure building or staff secure facility for the temporary care of a child who is the subject of a delinquency complaint.**]**

[(e)**]** (d) ''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.

[(f)**]** (e) ''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 conten-

dere 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.

[(g)**]** (f) ''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.

[(h) ''Parent'' means a biological mother or father or adoptive mother or father except a biological or adoptive mother or father whose parental rights have been terminated; or the father of any child born out of wedlock, provided at the time of the filing of the petition (1) he has been adjudicated the father of such child by a court which possessed the authority to make such adjudication, or (2) he has acknowledged in writing to be the father of such child, or (3) he has contributed regularly to the support of such child, or (4) his name appears on the birth certificate, or (5) he has filed a claim for paternity as provided under General Statutes § 46b-172a, or (6) he has been named in the petition as the father of the minor child by the mother.**]**

(g) ''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.

[(i)**]** (h) ''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.

[(j)**]** (i) ''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).

[(k)**]** (j) ''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.

[(*l*)**]** (k) ''Information'' means a formal pleading filed by a prosecutor alleging that a child in a delinquency matter is within the judicial authority's jurisdiction.

[(m)**]** (*l*) ''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.

[(n)**]** (m) ''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.

[(o)**]** (n) ''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.

[(p)**]** (o) ''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.

[(q)**]** (p) ''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.

[(r)**]** (q) ''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.

[(s)**]** (r) ''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.

[(t)**]** (s) ''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.

[(u)**]** (t) ''Take into Custody Order'' means an order by a judicial authority that a child be taken into custody and immediately turned over to a **[**detention**]** Juvenile Residential Center **[**s**]**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.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.'' The deletion of the definition of ''parent'' is suggested due to the numerous definitions of that term in No. 21-15 of the 2021 Public Acts.

Sec. 27-1A. Referrals for Nonjudicial Handling of Delinquency Complaints

(a) Any police summons accompanied by a police report alleging an act of delinquency shall be in writing and signed by the police officer and filed with the clerk of the Superior Court for juvenile matters. After juvenile identification and docket numbers are assigned, the summons and report shall be referred to the probation department for possible nonjudicial handling.

(b) If the probation **[**officer**]** supervisor or designee determines that a delinquency complaint is eligible for nonjudicial handling, the assigned probation officer **[**may cause a notice to be mailed to the child and parent or guardian setting forth with reasonable particularity the contents of the complaint and fixing a time and location of the court and date not less than seven days, excluding Saturdays, Sundays, and holidays, subsequent to mailing**]** shall contact the parent or guardian in advance of the summons date in order to schedule an interview with the parent or guardian and child for the purpose of conducting risk and behavioral health screenings. A child determined by the risk screen to be at low risk to reoffend will be referred to community based diversionary programs with no further court intervention. Judicial handling will be reserved for those found to be at the highest levels of risk. All other cases will be eligible for nonjudicial handling. Refusal to participate in the screening process will render the child ineligible for diversion.

(c) Delinquency matters eligible for nonjudicial handling shall be designated as such on the docket. If the prosecuting authority objects

to the designation, the judicial authority shall determine if such designation is appropriate. The judicial authority may refer to the Office of Juvenile Probation a matter so designated and may, sua sponte, refer a matter for nonjudicial handling prior to adjudication.

COMMENTARY: The changes to this section and to Section 27-4A implement the recommendation of the IOYouth Task Force to more strategically direct juvenile delinquency cases from the formal court process.

Sec. 27-4A. Ineligibility for Nonjudicial Handling or Diversion of Delinquency Complaint

In the case of a delinquency complaint, a child shall not be eligible for nonjudicial handling or diversion if one or more of the following apply, unless waived by the judicial authority:

(1) The alleged misconduct is:

(A) **[**is**]** a serious juvenile offense under General Statutes § 46b-120**[**, or any other felony or violation of General Statutes § 53a-54d**]**;

(B) **[**concerns the theft or unlawful use or operation of a motor vehicle**]** a violent felony; or

(C) **[**concerns the sale of, or possession of with intent to sell, any illegal drugs or the use or possession of a firearm.**]** a violation of General Statutes § 53a-54d; or

[(2) The child was previously adjudicated delinquent or adjudged a child from a family with service needs alleged misconduct was committed by a child while on probation or under judicial supervision.

(3) The child admitted nonjudicially at least twice previously to having been delinquent.**]**

[(4)**]** (2) The alleged misconduct was committed by a child while on probation or under judicial supervision.

[(5) If the nature of the alleged misconduct warrants judicial intervention.**]**

COMMENTARY: The changes to this section and to Section 27-1A implement the recommendation of the IOYouth Task Force to more strategically direct juvenile delinquency cases from the formal court process.

Sec. 30-1A. Admission to [Detention] a Juvenile Residential Center

Whenever an officer or other person intends to admit a child into **[**detention**]** a juvenile residential center, the provisions of General Statutes § 46b-133 shall apply.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-2A. Nondelinquent Juvenile Runaway from Another State and Detention

No nondelinquent juvenile runaway from another state may be held in a juvenile **[**detention**]** residential center in accordance with the provisions of General Statutes § 46b-151h.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-3. Advisement of Rights

Upon admission to **[**detention**]** a juvenile residential center, the child shall be advised of the right to remain silent and the right to counsel and be further advised of the right to a detention hearing in accordance with Sections 30-5 through 30-8, which hearing may be waived only with the written consent of the child and the child's attorney.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-4. Notice to Parents by [Detention] Juvenile Residential Center Personnel

Upon admission, the **[**detention**]** Juvenile Residential Center **[**s**]**Superintendent or a designated representative shall make efforts to immediately notify the parent or guardian in the manner calculated most speedily to effect such notice and, upon the parent's or guardian's appearance at the **[**detention facility**]** juvenile residential center, shall advise the parent or guardian of his or her rights and note the child's rights, including the child's right to a detention hearing.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-5. Detention Time Limitations

(a) No child shall be held in **[**detention**]** a juvenile residential center for more than twenty-four hours, excluding Saturdays, Sundays, and holidays, unless (1) a delinquency petition or information alleging a delinquent act has been filed and (2) an order for such continued detention has been signed by the judicial authority following a hearing as provided by subsection (b) of this section or a waiver of hearing as provided by Section 30-8.

(b) A hearing to determine probable cause and the need for further detention shall be held no later than the next business day following the arrest.

(c) If a nondelinquent child is being held for another jurisdiction in accordance with the Interstate Compact on Juveniles, following the

initial hearing as provided by subsection (b) of this section, that child shall be held not more than ninety days and shall be held in a secure facility, as defined by rules promulgated in accordance with the Compact, other than a locked, **[**state operated detention facility**]** juvenile residential center.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-6. Basis for Detention

No child may be held in **[**detention**]** a juvenile residential center unless a judge of the Superior Court determines, based on the available facts that there is probable cause to believe that the child has committed the delinquent acts alleged, that there is no appropriate less restrictive alternative available and that there is (1) probable cause to believe that the level of risk that the child poses to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting, (2) a need to hold the child in order to ensure the child's appearance before the court or compliance with court process, as demonstrated by the child's previous failure to respond to the court process, or (3) a need to hold the child for another jurisdiction. The court in exercising its discretion to detain under General Statutes § 46b-133 (e) may consider as an alternative to detention a suspended detention order with graduated sanctions based upon a detention risk screening for such child developed by the Judicial Branch.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-8. Initial Order for Detention; Waiver of Hearing

Such initial order of detention may be signed without a hearing only if there is a written waiver of the detention hearing by the child and the child's attorney and there is a finding by the judicial authority that the circumstances outlined in Section 30-6 pertain to the child in question. An order of detention entered without a hearing shall authorize the detention of the child for a period not to exceed seven days, including the date of admission, or until the dispositional hearing is held, whichever is shorter, and may further authorize the **[**detention**]** Juvenile Residential Center **[**s**]**Superintendent or a designated representative to release the child to the custody of a parent, guardian or some other suitable person, with or without conditions of release, if detention is no longer necessary, except that no child shall be released from **[**detention**]** a juvenile residential center who is alleged to have committed a serious juvenile offense except by order of a judicial authority of the Superior Court. Such an ex parte order of detention shall be renewable only at a detention hearing before the judicial authority for a period that does not exceed seven days or until the dispositional hearing is held, whichever is shorter.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 30-10. Orders of a Judicial Authority after Initial Detention Hearing

(a) At the conclusion of the initial detention hearing, the judicial authority shall issue an order for detention on finding probable cause to believe that the child has committed a delinquent act and that at least one of the factors outlined in Section 30-6 applies to the child.

(b) If the child is placed in **[**detention**]** a juvenile residential center, such order for detention shall be for a period not to exceed seven days, including the date of admission, or until the dispositional hearing is held, whichever is the shorter period, unless, following a further detention review hearing, the order is renewed for a period that does not exceed seven days or until the dispositional hearing is held, whichever is shorter. Such detention review hearing may not be waived.

(c) If the child is not placed in **[**detention**]** a juvenile residential center but released on a suspended order of detention on conditions, such suspended order of detention shall continue to the dispositional hearing or until further order of the judicial authority. Said suspended order of detention may be reviewed by the judicial authority every seven days. Upon a finding of probable cause that the child has violated any condition, a judicial authority may issue a take into custody order or order such child to appear in court for a hearing on revocation of the suspended order of detention. Such an order to appear shall be served upon the child in accordance with General Statutes § 46b-128 (b), or, if the child is represented, by serving the order to appear upon the child's counsel, who shall notify the child of the order and the hearing date. After a hearing and upon a finding that the child has violated reasonable conditions imposed on release, the judicial authority may impose different or additional conditions of release or may remand the child to **[**detention**]** a juvenile residential center.

(d) In conjunction with any order of release from **[**detention**]** a juvenile residential center the judicial authority may, in accordance with General Statutes § 46b-133 (g), order the child to participate in a program of periodic alcohol or drug testing and treatment as a condition of such release. The results of any such alcohol or drug test shall be admissible

only for the purposes of enforcing the conditions of release from **[**detention**]** a juvenile residential center.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. Sec. 30-11. Detention after Dispositional Hearing

While awaiting implementation of the judicial authority's order in a delinquency case, a child may be held in **[**detention**]** a juvenile residential center subsequent to the dispositional hearing, provided a hearing to review the circumstances and conditions of such detention order shall be conducted every seven days and such hearing may not be waived.

COMMENTARY: The changes to this section are consistent with No. 21-104 of the 2021 Public Acts, specifically the change from ''detention'' to ''juvenile residential center.''

Sec. 35a-1. Adjudication upon Acceptance of Admission or [Written] Plea of Nolo Contendere

(a) Notwithstanding any prior statements acknowledging responsibility, the judicial authority shall inquire whether the allegations of the petition are presently admitted or denied. This inquiry shall be made of the parent(s) or guardian in neglect, abuse or uncared for matters, and of the parents in termination matters.

(b) An admission to allegations or a **[**written**]** plea of nolo contendere **[**signed by the respondent**]** may be accepted by the judicial authority. Before accepting an admission or plea of nolo contendere, the judicial authority shall determine whether the right to trial has been waived, and that the parties understand the content and consequences of their

admission or plea. If the allegations are admitted or the plea accepted, the judicial authority shall make its adjudicatory finding as to the validity of the facts alleged in the petition and may proceed to a dispositional hearing. Where appropriate, the judicial authority may permit a noncustodial parent or guardian to stand silent as to the entry of an adjudication. The judicial authority shall determine whether a noncustodial parent or guardian standing silent understands the consequences of standing silent.

COMMENTARY: The changes to this section remove the requirements that a plea of nolo contendere be in writing and signed by the respondent.

PROPOSED AMENDMENTS TO THE CRIMINAL RULES

Sec. 42-13. —Peremptory Challenges

(a) The prosecuting authority and the defendant may challenge peremptorily the number of jurors which each is entitled to challenge by law.

(b) Pursuant to the provisions of Section 5-12, a party or the court on its own may object to the use of a peremptory challenge to raise a claim of improper bias.

COMMENTARY: The change to this section includes a reference to the procedure to object to peremptory challenges under new Section 5-12, to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

Sec. 43-39. Speedy Trial; Time Limitations

(a) Except as otherwise provided herein and in Section 43-40 or 43-40A, the trial of a defendant charged with a criminal offense during

the period from July 1, 1983, through June 30, 1985, inclusive, shall commence within eighteen months from the filing of the information or from the date of the arrest, whichever is later.

(b) The trial of such defendant shall commence within twelve months from the filing of the information or from the date of the arrest, whichever is later, if the following conditions are met:

(1) the defendant has been continuously incarcerated in a correctional institution of this state pending trial for such offense; and

(2) the defendant is not subject to the provisions of General Statutes § 54-82c.

(c) Except as otherwise provided herein and in Section 43-40 or 43-40A, the trial of a defendant charged with a criminal offense on or after July 1, 1985, shall commence within twelve months from the filing of the information or from the date of the arrest, whichever is later.

(d) The trial of such defendant shall commence within eight months from the filing of the information or from the date of the arrest, whichever is later, if the following conditions are met:

(1) the defendant has been continuously incarcerated in a correctional institution of this state pending trial for such offense; and

(2) the defendant is not subject to the provisions of General Statutes § 54-82c.

(e) If an information which was dismissed by the trial court is reinstated following an appeal, the time for trial set forth in subsections (a), (b) and (c) shall commence running from the date of release of the final appellate decision thereon.

(f) If the defendant is to be tried following a mistrial, an order for a new trial, an appeal or collateral attack, the time for trial set forth in subsections (a), (b) and (c) shall commence running from the date the order occasioning the retrial becomes final.

COMMENTARY: The changes to this section are consistent with the adoption of Section 43-40A regarding the included time in the speedy trial calculation.

Sec. 43-41. —Motion for Speedy Trial; Dismissal

If the defendant is not brought to trial within the applicable time limit set forth in Sections 43-39 **[**and**]** through 43-40A, and, absent good cause shown, a trial is not commenced within thirty days of the filing of a motion for speedy trial by the defendant at any time after such time limit has passed, the information shall be dismissed with prejudice, on motion of the defendant filed after the expiration of such thirty day period. For the purpose of this section, good cause consists of any one of the reasons for delay set forth in Section 43-40 or 43-40A. When good cause for delay exists, the trial shall commence as soon as is reasonably possible. Failure of the defendant to file a motion to dismiss prior to the commencement of trial shall constitute a waiver of the right to dismissal under these rules.

COMMENTARY: The changes to this section are consistent with the adoption of Section 43-40A regarding the included time in the speedy trial calculation.

PROPOSED AMENDMENTS TO THE PRACTICE BOOK FORMS

Form 203

Plaintiff's Interrogatories

Premises Liability Cases

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Plaintiff, hereby propounds the following interrogatories to be answered by the Defendant, _____, under oath, within sixty (60) days of the filing hereof in compliance with Practice Book Section 13-2.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) Identify the person(s) who, at the time of the Plaintiff's alleged injury, owned the premises where the Plaintiff claims to have been injured.

(a) If the owner is a natural person, please state:

(i) your name and any other name by which you have been known;

(ii) your date of birth;

(iii) your home address;

(iv) your business address.

(b) If the owner is not a natural person, please state:

(i) your name and any other name by which you have been known;

(ii) your business address;

(iii) the nature of your business entity (corporation, partnership, etc.);

(iv) whether you are registered to do business in Connecticut;

(v) the name of the manager of the property, if applicable.

(2) Identify the person(s) who, at the time of the Plaintiff's alleged injury, had a possessory interest (e.g., tenants) in the premises where the Plaintiff claims to have been injured.

(3) Identify the person(s) responsible for the maintenance and inspection of the premises at the time and place where the Plaintiff claims to have been injured. "Maintenance and inspection" includes, but is not limited to, snow and ice removal.

(4) State whether you received or prepared any invoices or records related to such maintenance and inspection for the thirty days prior to, or on, the date on which the Plaintiff claims to have been injured.

[(4)**]** (5) State whether you had in effect at the time of the Plaintiff's injuries any written policies, procedures or contracts that relate to the kind of conduct or condition the Plaintiff alleges caused the injury.

[(5)**]** (6) State whether it is your business practice to prepare, or to obtain from your employees, a written report of the circumstances surrounding injuries sustained by persons on the subject premises.

[(6)**]** (7) State whether any written report of the incident described in the Complaint was prepared by you or your employees in the regular course of business.

[(7)**]** (8) State whether any warnings or caution signs or barriers were erected at or near the scene of the incident at the time the Plaintiff claims to have been injured.

[(8)**]** (9) If the answer to the previous interrogatory is in the affirmative, please state:

(a) the name, address and employer of the person who erected the warning or caution signs or barriers;

(b) the name, address and employer who instructed the person to erect the warning or caution signs or barriers;

(c) the time and date a sign or barrier was erected;

(d) the size of the sign or barrier and wording that appeared thereon.

[(9)**]** (10) State whether you received, at any time within twenty-four (24) months before the incident described by the Plaintiff, complaints from anyone about the defect or condition that the Plaintiff claims caused the Plaintiff's injury,

[(10)**]** (11) If the answer to the previous interrogatory is in the affirmative, please state:

(a) the name and address of the person who made the complaint;

(b) the name, address and person to whom said complaint was made;

(c) whether the complaint was in writing;

(d) the nature of the complaint.

[(11)**]** (12) Please identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control

or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

[(12)**]** (13) Are you aware of any photographs or any recordings by film, video, audio or any other digital or electronic means depicting the incident alleged in the Complaint, the scene of the incident, or any condition or injury alleged to have been caused by the incident alleged in the Complaint? If so, for each set of photographs or each recording taken, obtained or prepared of each such subject, please state:

(a) the name and address of the person who took, obtained or prepared such photographs or recording, other than an expert who will not testify at trial;

(b) the dates on which such photographs were taken or such recordings were obtained or prepared;

(c) the subject (e.g., ''scene of incident,'' etc.);

(d) the number of photographs or recordings;

(e) the nature of the recording (e.g., film, video, audio, etc.).

[(13)-(23)**]** (14)-(24) (Interrogatories #1 (a) through (e), #2 through #5, #7, #8, #9, #12, #13 and #16 of Form 201 may be used to complete this standard set of interrogatories.)

PLAINTIFF,

BY _____

CERTIFICATION

I hereby certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date) _____ to all attorneys and self-represented parties of record

and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (Signature of filer) Print or type name of person signing

_____

Date Signed

_____

Mailing address (Number, street, town, state and zip code) or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form include an inquiry into whether there was an agreement for snow and ice removal and the existence of a contract for such.

Form 206

Plaintiff's Requests for Production—Premises Liability

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Plaintiff hereby requests that the Defendant provide counsel for the Plaintiff with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorization shall take place at the offices of _____ on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Defendant(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) A copy of the policies, **[**or**]** procedures, contracts, invoices, or records identified in response to Interrogatories #4 and #5.

(2) A copy of the report identified in response to Interrogatory **[**#6**]** #7.

(3) A copy of any written complaints identified in Interrogatory **[**#10**]** #11.

(4) A copy of declaration page(s) evidencing the insurance policy or policies identified in response to Interrogatories numbered _____ and _____.

(5) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party in this lawsuit concerning this action or its subject matter,

(6) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

(7) A copy of any photographs or recordings, identified in response to Interrogatory **[**#12**]** #13.

(8) A copy of any written lease(s) and any amendments or extensions to such lease(s) for the premises where the Plaintiff claims to have been injured in effect at the time of the Plaintiff's injury between you and the person or entity identified in Interrogatory #2.

(9) A copy of any written contract or agreement regarding the maintenance and inspection of the premises where the Plaintiff claims to have been injured in effect at the time of the Plaintiff's injury between you and the person or entity identified in Interrogatory #3.

PLAINTIFF,

BY _____

CERTIFICATION

I hereby certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date) _____ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all

attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (Signature of filer) Print or type name of person signing

_____

Date Signed

_____

Mailing address (Number, street, town, state and zip code) or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form include an inquiry into whether there was an agreement for snow and ice removal and the existence of a contract for such.

Public Hearing on Practice Book Revisions to the Rules of Appellate Procedure Being Considered by the Justices of the Supreme Court and Judges of the Appellate Court

---

Including Commentaries to Proposals

April 26, 2022

NOTICE

Public Hearing on Practice Book Revisions to the Rules of Appellate Procedure Being Considered by the Justices of the Supreme Court and Judges of the Appellate Court

On May 24, 2022, at 2 p.m., a public hearing will be conducted pursuant to General Statutes § 51-14 (c) in the Supreme Court courtroom, 231 Capitol Avenue, Hartford, for the purpose of receiving comments concerning revisions to the Rules of Appellate Procedure which are being considered by the Justices and Judges, as well as any proposed new rule or any change to an existing rule that any member of the public deems desirable. The revisions proposed by the Advisory Committee on Appellate Rules follow this notice and are posted on the Judicial Branch website at http://www.jud.ct.gov/pb.htm.

Each speaker will be allowed a maximum of five minutes to offer their remarks. Anyone who believes that they may need to exceed the five minute limit or who does not wish to speak at the public hearing but wishes to offer comments on the proposed revisions may submit their comments to the co-chairs of the Advisory Committee on Appellate Rules by e-mail to Attorney Jill Begemann at Jill.Begemann@connapp.jud.ct.gov or by forwarding their comments to the co-chairs at the following address:

Co-Chairs of the Advisory Committee on Appellate Rules
Attn: Attorney Jill Begemann
Connecticut Appellate Court
75 Elm Street
Hartford, CT 06106

All comments should be received by May 18, 2022.

Wheelchair access is located in the rear of the Supreme Court building, and may be reached from the staff parking lot between Lafayette and Oak Streets. There are a limited number of accessible parking spaces in the gated staff lot, which may be entered from Oak Street. Use the intercom at the gate to speak to security about the availability of parking. Once at the accessible door, use the intercom to request entry from security. If you would like to attend the meeting and need an accommodation under the Americans with Disabilities Act, please e-mail ADA.Contact@connapp.jud.ct.gov or call (860) 757-2200, ext. 3141 before May 18, 2022.

Hon. Gregory T. D'Auria
Hon. Eliot D. Prescott
Co-Chairs, Advisory Committee on Appellate Rules

INTRODUCTION

The following are amendments to the Rules of Appellate Procedure that are being considered by the Justices of the Supreme Court and Judges of the Appellate Court. These amendments are indicated by brackets for deletions and underlined text for added language. The designation ''NEW'' is printed with the title of each new rule. This material should be used as a supplement to the Connecticut Practice Book until the 2023 edition of the Practice Book becomes available.

CHAPTER AND SECTION HEADINGS OF THE RULES

RULES OF APPELLATE PROCEDURE

CHAPTER 60
GENERAL PROVISIONS RELATING TO APPELLATE RULES AND APPELLATE REVIEW

CHAPTER 61
REMEDY BY APPEAL

CHAPTER 62
CHIEF JUDGE, APPELLATE CLERK AND DOCKET: GENERAL ADMINISTRATIVE MATTERS

CHAPTER 63
FILING THE APPEAL; WITHDRAWALS

CHAPTER 65
TRANSFER OF [CASES] MATTERS

CHAPTER 66
MOTIONS AND OTHER PROCEDURES

CHAPTER 67
BRIEFS

CHAPTER 70
ARGUMENTS AND MEDIA COVERAGE OF COURT PROCEEDINGS

CHAPTER 72
WRITS OF ERROR

CHAPTER 73
RESERVATIONS

CHAPTER 77
PROCEDURES CONCERNING COURT CLOSURE AND SEALING ORDERS OR ORDERS LIMITING THE DISCLOSURE OF FILES, ADDIDAVITS, DOCUMENTS OR OTHER MATERIAL

CHAPTER 78b
REVIEW OF ORDERS DENYING APPLICATION FOR WAIVER OF FEES TO COMMENCE A CIVIL ACTION OR A WRIT OF HABEAS CORPUS (NEW)

CHAPTER 79a
APPEALS IN CHILD PROTECTION MATTERS

CHAPTER 81
APPEALS TO APPELLATE COURT BY CERTIFICATION FOR REVIEW IN ACCORDANCE WITH GENERAL STATUTES CHAPTERS 124 AND 440

CHAPTER 82
CERTIFIED QUESTIONS TO OR FROM COURTS OF OTHER JURISDICTIONS

CHAPTER 83
CERTIFICATION PURSUANT TO GENERAL STATUTES § 52-265a IN CASES OF SUBSTANTIAL PUBLIC INTEREST

CHAPTER 84
APPEALS TO SUPREME COURT BY CERTIFICATION FOR REVIEW

AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE

CHAPTER 60 GENERAL PROVISIONS RELATING TO APPELLATE RULES AND APPELLATE REVIEW

Sec. 60-4. Definitions

''Administrative appeal'' shall mean an appeal from a judgment of the Superior Court concerning the appeal to that court from a decision of any officer, board, commission or agency of the state or of any political subdivision of the state.

''Appellant'' shall mean the party, or parties if an appeal is jointly filed, taking the appeal.

''Appellee'' shall mean all other parties in the trial court at the time of judgment, unless after judgment the matter was withdrawn as to them or unless a motion for permission not to participate in the appeal has been granted by the court.

''Certificate of interested entities or individuals'' is a certificate filed in any civil appellate matter, excluding habeas corpus matters, by counsel of record for a party that is an entity as defined in this rule. The certificate shall list for that party: (1) any parent entities and (2) all entities or individuals owning or controlling an interest of 10 percent or more of that party. If there are no other interested entities or individuals, a certificate indicating that information is required. The certificate shall also state whether the party knows of any direct or indirect ownership, controlling or legal interest for that party that counsel of record thinks could reasonably require a judge to disqualify himself or herself under Rule 2.11 of the Code of Judicial Conduct.

''Counsel of record'' shall include all attorneys and self-represented parties appearing in the trial court at the time of the initial appellate filing, unless an exception pursuant to Section 62-8applies, all attorneys and self-represented parties who filed the appellate matter, and all attorneys and self-represented parties who file an appearance in the appellate matter.

''Entity'' means any corporation, limited liability company, partnership, limited liability partnership, firm or any association that is not a governmental entity or its agencies.

''Filed'' shall mean the receipt by the appellate clerk of a paper or document by electronic submission pursuant to Section 60-7. If an exemption to electronic filing has been granted or if the electronic filing requirements do not apply, filed shall mean receipt of the paper or document by hand delivery, by first class mail or by express mail delivered by the United States Postal Service or an equivalent commercial service. If a document must be filed by a certain date under these rules or under any statutory provision, the document must be received by the appellate clerk by the close of business on that date; it is not sufficient that a document be mailed by that date to the appellate clerk unless a rule or statutory provision expressly so computes the time.

''Issues'' shall include claims of error, certified questions and questions reserved.

''Motion'' shall include applications and petitions, other than petitions for certification. A preappeal motion is one that is filed prior to or independent of an appeal.

''Paper'' and ''Document'' shall include an electronic submission that complies with the procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system and a paper or document created in or converted to a digital format by the Judicial Branch.

''Petition'' does not include petitions for certification unless the context clearly requires.

''Record'' shall include the case file, any decisions, documents, transcripts, recordings and exhibits from the proceedings below, and, in appeals from administrative agencies, the record returned to the trial court by the administrative agency.

''Requests'' shall include correspondence and notices as permitted by these rules.

''Signature'' shall be made upon entry of an attorney's individual juris number or a self-represented party's user identification number during the filing transaction, unless an exemption from the requirements of Section 60-7 (d) has been granted or applies.

''Submission'' shall mean a ''paper'' or a ''document'' and shall include an electronic submission that complies with the procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system.

(For additional definitions, see Secs. 62-2 and 76-6.)

COMMENTARY: These amendments add definitions for ''certificate of interested entities or individuals'' and ''entity'' in accordance with a new filing intended to provide the Supreme and Appellate Courts with information regarding individuals or entities that own or have certain controlling or ownership interests in the business entities appearing before those courts.

CHAPTER 61

REMEDY BY APPEAL

Sec. 61-9. Decisions Subsequent to Filing of Appeal; Amended Appeals

Should the trial court, subsequent to the filing of a pending appeal, make a decision that the appellant desires to have reviewed, the appellant shall file an amended appeal within twenty days from the issuance of notice of the decision as provided for in Section 63-1.

The amended appeal shall be filed **[**in the same manner as an original appeal pursuant to Section 63-3**]** in the pending appeal using form JD-SC-033, along with a certification pursuant to Section 62-7. No additional fee is required to be paid upon the filing of an amended appeal.

Within ten days of filing the amended appeal, the appellant shall file with the appellate clerk either a certificate stating that there are no changes to the Section 63-4 papers filed with the original appeal or any amendments to those papers. Any other party may file responsive Section 63-4 papers within twenty days of the filing of the certificate or the amendments.

If the original appeal is dismissed for lack of jurisdiction, any amended appeal shall remain pending if it was filed from a judgment or order from which an original appeal properly could have been filed.

After disposition of an appeal where no amended appeals related to that appeal are pending, a subsequent appeal shall be filed as a new appeal.

If an amended appeal is filed after the filing of the appellant's brief but before the filing of the appellee's brief, the appellant may move

for leave to file a supplemental brief. If an amended appeal is filed after the filing of the appellee's brief, either party may move for such leave. In any event, the court may order that an amended appeal be briefed or heard separately from the original appeal.

If the appellant files a subsequent appeal from a trial court decision in a case where there is a pending appeal, the subsequent appeal may be treated as an amended appeal, and, if it is treated as an amended appeal, there will be no refund of the fees paid.

COMMENTARY: The purpose of this amendment is to more closely conform the text of the rule to e-filing practice.

CHAPTER 62

CHIEF JUDGE, APPELLATE CLERK AND DOCKET: GENERAL ADMINISTRATIVE MATTERS

Sec. 62-5. Changes in Parties

Any change in the parties to an action pending an appeal shall be made in the court in which the appeal is pending. The appellate clerk shall notify the clerk of the trial court of any change.

If any party to a civil action is an entity as defined in Section 60-4, counsel of record shall include a certificate of interested entities or individuals with any motion seeking a change in the parties filed with the appellate clerk.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

CHAPTER 63

FILING THE APPEAL; WITHDRAWALS

Sec. 63-3. Filing of Appeal

All appeals shall be filed and all fees paid in accordance with the provisions of Section 60-7 or 60-8. The appeal will be docketed upon

filing but may be returned or rejected for noncompliance with the Rules of Appellate Procedure.

The appellant must certify that a copy of the appeal form generated at the time of electronic filing and bearing the assigned docket number and electronic signature of the filer will immediately be delivered pursuant to Section 62-7 (c) to all counsel of record and, in criminal and habeas corpus matters, to the Office of the Chief State's Attorney, Appellate Bureau. The appellate clerk, upon receipt of the foregoing, shall deliver a copy of the appeal form to the clerk of the **[**original**]** trial court**[**, to the clerk of any trial courts to which the matter was transferred, and to each party to the appeal**]**. In criminal and habeas corpus matters, the appellate clerk shall deliver a copy of the appeal form to the Office of the Chief State's Attorney, Appellate Bureau, or to the attorney general, as appropriate.

COMMENTARY: These amendments conform the rule to e-filing practice and available technological capabilities. Notices from the appellate clerk will replace the delivery of the copy of the appeal form as required under the present rule.

Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the Appeal

(Applicable to appeals filed on or after October 1, 2021.)

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or

(C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall file a preliminary statement of issues within twenty days from the filing of the appellant's preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A designation of the proposed contents of the clerk appendix that is to be prepared by the appellate clerk under Section 68-2A listing the specific documents docketed in the case file that the appellant deems are necessary to include in the clerk appendix for purposes of presenting the issues on appeal, including their dates of filing in the proceedings below, and, if applicable, their number as listed on the docket sheet. The appellant shall limit the designation to the documents referenced in Section 68-3A for inclusion in the clerk appendix. If any other party disagrees with the inclusion of any documents designated by the appellant, or deems it necessary to include other documents docketed in the case file in the clerk appendix, that party may, within seven days from the filing of the appellant's designation of the proposed contents of the clerk appendix, file its own designation of the proposed contents of the clerk appendix.

(3) A certificate stating that no transcript is deemed necessary or a transcript order confirmation from the official court reporter pursuant to Section 63-8. If the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

If any other party deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If the order is for any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

(4) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, and the names, addresses, and e-mail addresses of trial and appellate counsel of record**[**, and the names and addresses of all persons having a legal interest in the cause on appeal sufficient to raise a substantial question whether a judge should be disqualified from participating in the decision on the case by virtue of that judge's personal or financial interest in any such persons**]**; (B) the case names and docket numbers of all pending appeals to the Supreme Court or Appellate Court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether a criminal protective order, civil protective order, or civil restraining order was requested or issued during any of the underlying proceedings; **[**(D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof;**]** and (**[**E**]**D) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall

file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named ''Nonparticipating Appellee(s).'' This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(6) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general

is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(7) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (See Section 77-2.)

(8) If an entity as defined in Section 60-4 is an appellant, counsel of record for that entity shall file a certificate of interested entities or individuals as defined in Section 60-4 in any civil appeal to assist the appellate jurists in making an informed decision regarding possible disqualification from the appeal. If an entity in a civil appeal is an appellee, counsel of record for the entity shall file a certificate of interested entities or individuals within twenty days of the filing of the appellant's preliminary statement of the issues. Counsel of record has a continuing duty to amend the certificate of interested entities or individuals during the pendency of the appeal if any changes occur.

(b) Except as otherwise provided, a party may as of right file amendments to the preliminary statement of issues at any time until that party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

COMMENTARY: The purpose of these amendments is to remove subsection (a) (4) (D) in light of changes to how the appellate clerk receives exhibits from the trial court and to describe when a certificate of interested entities or individuals is required to be filed.

Sec. 63-10. Preargument Conferences

The chief justice or the chief judge or a designee may, in cases deemed appropriate, direct that conferences of the parties be scheduled in advance of oral argument. All civil cases are eligible for preargument conferences except habeas corpus appeals, appeals involving juvenile matters, including child protection appeals as defined in Section 79a-1, summary process appeals, foreclosure appeals, and appeals from the suspension of a motor vehicle license due to operating under the influence of liquor or drugs.

In any exempt case, all parties appearing and participating in the appeal may file a joint request for a preargument conference. In a foreclosure case, the request for a preargument conference is sufficient if jointly submitted by the owner of the equity and the foreclosing party. In any exempt case, however, the chief justice or the chief judge or a designee may, if deemed appropriate, order a preargument conference.

The chief justice may designate a judge of the Superior Court, a senior judge or a judge trial referee to preside at a preargument conference. The scheduling of or attendance at a preargument confer-

ence shall not affect the duty of the parties to adhere to the times set for the filing of briefs. Failure of counsel of record to attend a preargument conference may result in the imposition of sanctions under Section 85-2. Unless other arrangements have been approved in advance by the **[**conference**]** presiding judge, parties shall be present at the preargument conference site and available for consultation. When a party against whom a claim is made is insured, an insurance adjuster for such insurance company shall be available by telephone at the time of such preargument conference unless the **[**conference**]** presiding judge, in his or her discretion, requires the attendance of the adjuster at the preargument conference. The preargument conference proceedings shall not be brought to the attention of the court by the presiding **[**officer**]** judge or any of the parties unless the preargument conference results in a final disposition of the appeal.

The following matters may be considered:

(1) Possibility of settlement;

(2) Simplification of issues;

(3) Amendments to the preliminary statement of issues;

(4) Transfer to the Supreme Court;

(5) Timetable for the filing of briefs;

(6) En banc review; and

(7) Such other matters as the **[**conference**]** presiding judge shall consider appropriate.

All matters scheduled for a preargument conference before a judge trial referee are referred to that official by the chief court administrator pursuant to General Statutes § 52-434a, which vests judge trial refer-

ees with the same powers and jurisdiction as Superior Court judges and senior judges, including the power to implement settlements by opening and modifying judgments.

COMMENTARY: These amendments make technical changes to the rule to refer to the presiding judge at the preargument conference in a consistent manner.

CHAPTER 65

TRANSFER OF [CASES] MATTERS

COMMENTARY: This amendment was made for consistency.

Sec. 65-1. Transfer of [Cases] Matter by Supreme Court

[When, p]Pursuant to General Statutes § 51-199 (c), the Supreme Court may [(1)] transfer[s to itself] a [cause in] matter to itself from the Appellate Court[,] or [(2) transfers a cause or a class of causes] from itself to the Appellate Court.[, the appellate clerk shall notify all parties and the clerk of the trial court that the appeal has been transferred. A case so transferred shall be entered upon the docket of the court to which it has been transferred. There shall be no fee on such transfer. The appellate clerk may require the parties to take such steps as may be necessary to make the appeal conform to the rules of the court to which it has been transferred, for example, supply the court with additional copies of the briefs and party appendices, if any.]

COMMENTARY: These amendments clarify existing appellate practice.

(NEW) Sec. 65-1A. Transfer of Matter on Recommendation of Appellate Court

If, at any time before the final determination of a matter, the Appellate Court is of the opinion that the matter is appropriate for Supreme Court

review, the Appellate Court may notify the Supreme Court of the reasons why transfer is appropriate. The Supreme Court will then determine if the matter will be transferred.

COMMENTARY: This new section clarifies existing appellate practice.

Sec. 65-2. [Motion for] Party Motion to Transfer [from Appellate Court to Supreme Court] Appeal, Writ of Error or Reservation

After the filing of an appeal, writ of error or reservation in the Appellate Court, but in no event after **[**the case**]** it has been assigned for hearing, any party may move for transfer to the Supreme Court. The motion, addressed to the Supreme Court, shall specify, in accordance with provisions of Section 66-2, the reasons why the party believes that the Supreme Court should hear the **[**appeal**]** matter directly. A copy of the memorandum of decision of the trial court, if any, shall be attached to the motion. The filing of a motion for transfer shall not stay proceedings in the Appellate Court.

[If, at any time before the final determination of an appeal, the Appellate Court is of the opinion that the appeal is appropriate for Supreme Court review, the Appellate Court may notify the Supreme Court of the reasons why transfer is appropriate. If the Supreme Court transfers the case to itself, the appellate clerk shall promptly notify the parties. The appellate clerk may require the parties to take such steps as may be necessary to make the appeal conform to the rules of the court to which it has been transferred.**]**

COMMENTARY: These amendments clarify existing appellate practice.

Sec. 65-3. Transfer of Petition[s] for Review of Bail Order[s] from Appellate Court to Supreme Court

Whenever a petition for review of an order of the Superior Court concerning release is filed in the Appellate Court pursuant to General Statutes § 54-63g in any case on appeal to the Supreme Court or where the defendant could appeal to the Supreme Court if convicted, such petition shall be transferred to the Supreme Court pursuant to the exercise of the Supreme Court's transfer jurisdiction under General Statutes § 51-199 (c) for review of such order.

COMMENTARY: These amendments were made for consistency.

Sec. 65-4. Transfer of Matter[s] Brought to Wrong Court

Any **[**appeal or cause**]** matter brought to the Supreme Court or the Appellate Court which is not properly within the jurisdiction of the court to which it is brought shall not be dismissed for the reason that it was brought to the wrong court but shall be transferred by the appellate clerk to the court with jurisdiction and entered on its docket. Any timely filed **[**appeal or cause**]** matter that is transferred shall be considered timely filed in the appropriate court. **[**The appellate clerk shall notify all parties and the clerk of the trial court that the appeal or cause has been transferred. In the event that an appeal or cause is so transferred, no additional fees will be due.**]**

COMMENTARY: These amendments clarify existing appellate practice.

(NEW) Sec. 65-5. Proceedings after Transfer

The appellate clerk shall notify all parties and the clerk of the trial court that a matter has been transferred. The transferred matter shall

be entered upon the docket of the court to which it was transferred. There shall be no fee on such transfer. The appellate clerk may require the parties to take such steps as may be necessary to make the matter conform to the rules of the court to which it has been transferred, for example, supply the court with additional copies of briefs and party appendices, if any.

COMMENTARY: This new section clarifies existing appellate practice and consolidates information previously contained in multiple rules.

CHAPTER 66

MOTIONS AND OTHER PROCEDURES

Sec. 66-1. Extension of Time

(a) Motions to extend the time limit for filing an appeal shall be filed with the clerk of the trial court. Except as otherwise provided in these rules, the judge who tried the case may, for good cause shown, extend the time limit provided for filing the appeal, except that such extension shall be of no effect if the time within which the appeal must be filed is set by statute and is a time limit that the legislature intended as a limit on the subject matter jurisdiction of the court in which the appeal is filed. In no event shall the trial judge extend the time for filing the appeal to a date which is more than twenty days from the expiration date of the appeal period. Where a motion for extension of the period of time within which to appeal has been filed at least ten days before expiration of the time limit sought to be extended, the party seeking to appeal shall have no less than ten days from issuance of notice of denial of the motion to file the appeal.

(b) Motions to extend the time limit for filing any appellate document, other than the appeal or a motion for review of a ruling concerning a stay of execution pursuant to Section 61-14, shall be filed with the appellate clerk. The motion shall set forth the reason for the requested extension and shall be accompanied by a certification that complies with Section 62-7. An attorney filing such a motion on a client's behalf shall also indicate that a copy of the motion has been delivered to each of his or her clients who are parties to the appeal. The moving party shall also include a statement as to whether the other parties consent or object to the motion. A motion for extension of time to file a brief must specify the current status of the brief or preparations therefor, indicate the estimated date of completion, and, in criminal cases, state whether the defendant is incarcerated as a result of the proceeding in which the appeal has been filed.

(c) The appellate clerk is authorized to grant or to deny motions for extension of time promptly upon their filing. Motions for extension of time to complete any step necessary to prosecute or to defend the appeal, to move for or to oppose a motion for reconsideration, or to petition for or to oppose a petition for certification will not be granted except for good cause. Claims of good cause shall be raised promptly after the cause arises.

(d) An opposing party who objects to a motion for extension of time filed pursuant to subsection (b) of this section shall file an objection with reasons in support thereof with the appellate clerk within five days from the filing of the motion. Parties that are exempt from electronic

filing pursuant to Section 60-8 shall file the objection within ten days from the filing of the motion.

(e) **[**A motion for extension of time shall be filed at least ten days before the expiration of the time limit sought to be extended or, if the cause for such extension arises during the ten day period, as soon as reasonably possible after such cause has arisen.**]** No motion under this rule shall be granted unless it is filed before the time limit sought to be extended by such motion has expired.

(f) Any action by the trial judge pursuant to subsection (a) of this section or the appellate clerk pursuant to subsection (c) of this section is reviewable pursuant to Section 66-6.

COMMENTARY: The purpose of the amendment to subsection (d) is to give parties who are exempt from e-filing, which includes incarcerated self-represented litigants, an additional five days to object to a motion for an extension of time. The amendment to subsection (e) conforms the rule to what has been treated as mandatory.

Sec. 66-3. Motion Procedures and Filing

All motions, petitions, applications, memoranda of law, stipulations, and oppositions shall be filed with the appellate clerk in accordance with the provisions of Sections 60-7 and 60-8 and docketed upon filing. The submission may be returned or rejected for noncompliance with the Rules of Appellate Procedure. All papers shall contain a certification that a copy has been delivered to each other counsel of record in accordance with the provisions of Section 62-7.

No paper mentioned above shall be filed after expiration of the time for its filing unless the filer demonstrates good cause for its

untimeliness in a separate section captioned ''good cause for late filing.'' No motion directed to the trial court that is required to be filed with the appellate clerk shall be filed after expiration of the time for its filing, except on separate written motion accompanied by the proposed trial court motion and by consent of the Supreme or Appellate Court. No amendment to any of the above mentioned papers shall be filed except on written motion and by consent of the court.

Motions shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in motions: Arial and Univers. Each page of a motion, petition, application, memorandum of law, stipulation and opposition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2inch; and bottom, 1 inch.

Any preappeal motion, petition, application or opposition filed by an entity as defined in Section 60-4 in a civil matter shall be accompanied by a certificate of interested entities or individuals filed by counsel of record.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

Sec. 66-5. Motion for Rectification; Motion for Articulation

A motion seeking corrections in the transcript or the trial court record or seeking an articulation or further articulation of the decision of the trial court shall be called a motion for rectification or a motion for articulation, whichever is applicable. Any motion filed pursuant to this

section shall state with particularity the relief sought and shall be filed with the appellate clerk. Any other party may oppose the motion by filing an opposition with the appellate clerk within ten days of the filing of the motion for rectification or articulation. The trial court may, in its discretion, require assistance from the parties in providing an articulation. Such assistance may include, but is not limited to, provision of copies of transcripts and exhibits.

The appellate clerk shall forward the motion for rectification or articulation and the opposition, if any, to the trial judge who decided, or presided over, the subject matter of the motion for rectification or articulation for a decision on the motion. If any party requests it and it is deemed necessary by the trial court, the trial court shall hold a hearing at which arguments may be heard, evidence taken or a stipulation of counsel received and approved. The trial court may make such corrections or additions as are necessary for the proper presentation of the issues. The clerk of the trial court shall list the decision on the trial court docket and shall send notice of the court's decision on the motion to the appellate clerk, and the appellate clerk shall issue notice of the decision to all counsel of record.

Nothing herein is intended to affect the existing practice with respect to opening and correcting judgments and the records on which they are based. The trial court shall file any such order changing the judgment or the record with the appellate clerk.

Corrections or articulations made before the clerk appendix is prepared shall be included in the clerk appendix. Corrections or articulations made after the clerk appendix is prepared but before the appel-

lant's brief **[**and appendix are**]**is prepared shall be included in the appellant's party appendix. Corrections or articulations made after the appellant's brief **[**and appendix have**]**has been filed, but before the appellee's brief **[**and appendix have**]**has been filed, shall be included in the appellee's party appendix. **[**When corrections or articulations are made after both parties' briefs and appendices have been filed, the appellant shall file the corrections or articulations as an addendum to its appendix. Any addendum shall be filed within ten days after issuance of notice of the trial court's order correcting the record or articulating the decision.**]**

The sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on the motion filed pursuant to this section or any other correction or addition ordered by the trial court during the pendency of the appeal shall be by motion for review under Section 66-7.

Upon the filing of a timely motion pursuant to Section 66-1, the appellate clerk may extend the time for filing briefs until after the trial court has ruled on a motion made pursuant to this section or until a motion for review under Section 66-7 is decided.

Any motion for rectification or articulation **[**shall be filed within thirty-five days after the delivery of the last portion of the transcripts or, if none, after the filing of the appeal, or, if no memorandum of decision was filed before the filing of the appeal, after the filing of the memorandum of decision. If the court, sua sponte, sets a different deadline from that provided in Section 67-3 for filing the appellant's brief, a motion for rectification or articulation**]** shall be filed at least ten days

prior to the deadline for filing the appellant's brief, unless otherwise ordered by the court. **[**The filing deadline may be extended for good cause.**]** If a final order has been issued for the appellant's brief, no motion for rectification or articulation shall be filed without permission of the court. No motion for rectification or articulation shall be filed after the filing of the appellant's brief except for good cause shown.

A motion for further articulation may be filed by any party within twenty days after issuance of notice of the filing of an articulation by the trial judge. A motion for extension of time to file a motion for articulation shall be filed in accordance with Section 66-1.

COMMENTARY: These amendments make the rule consistent with the recently enacted amendments regarding the preparation of the clerk appendix and to reflect the current practice that, if a final order has been issued for the appellant's brief, the appellant must obtain permission of the court before filing a motion for rectification or articulation.

CHAPTER 67

BRIEFS

Sec. 67-4. The Appellant's Brief; Contents and Organization

The appellant's brief shall contain the following:

(a) A table of contents.

(b) A concise statement setting forth, in separately numbered paragraphs, without detail or discussion, the principal issue or issues involved in the appeal, with appropriate references to the page or pages of the brief where the issue is discussed, pursuant to subsection (e) hereof. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of issues.

(c) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.

(d) A statement of the nature of the proceedings and of the facts of the case bearing on the issues raised. The statement of facts shall be in narrative form, shall be supported by appropriate references to the page or pages of the transcript or to the document upon which the party relies and shall not be unnecessarily detailed or voluminous.

(e) The argument, divided under appropriate headings into as many parts as there are points to be presented, with appropriate references to the statement of facts or to the page or pages of the transcript or to the relevant document. The argument on each point shall include a separate, brief statement of the standard of review the appellant believes should be applied.

(1) When error is claimed in the trial court's refusal to charge the jury as requested, the party claiming such error shall include in the brief of that party or the appendix thereto a verbatim statement of the relevant portions of the charge as requested and as given by the court and any relevant exceptions to the charge as given and shall recite in narrative form any evidence which it is claimed would entitle that party to the charge as requested, with appropriate references to the page or pages of the transcript.

(2) When error is claimed in the charge to the jury, the brief or appendix shall include a verbatim statement of all relevant portions of the charge and all relevant exceptions to the charge. Unless essential to review of a claimed error, a verbatim statement of the entire

charge to the jury should not be included in the brief or appendix. Evidence relevant to the claimed error shall be recited in narrative form with appropriate references to the page or pages of the transcript.

(3) When error is claimed in any evidentiary ruling in a court or jury case, the brief or appendix shall include a verbatim statement of the following: the question or offer of exhibit; the objection and the ground on which it was based; the ground on which the evidence was claimed to be admissible; the answer, if any; and the ruling.

(4) When error is claimed in any other ruling in a court or jury case, the brief or appendix shall include the pertinent motion or pleading as well as any other pertinent documents which are a part of the record of the proceedings below.

(5) When the basis of an evidentiary or other ruling referred to in subsection (e) (3) or (e) (4) cannot be understood without knowledge of the evidence or proceeding which preceded or followed the ruling, a brief narrative or verbatim statement of the evidence or proceeding should be made. A verbatim excerpt from the transcript should not be used if a narrative statement will suffice. When the same ruling is repeated, the brief should contain only a single ruling unless the other rulings are further illustrative of the rule which determined the action of the trial court or establish the materiality or harmfulness of the error claimed. The statement of rulings in the brief shall include appropriate references to the page or pages of the transcript.

(f) A short conclusion stating the precise relief sought.

(g) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellant

relies. Such text need not be included in the brief if it is included in the appendix to the appellant's brief.

(h) In appeals filed pursuant to Section 81-4, a statement identifying the version of the land use regulations filed with the appellate clerk.

(i) In civil appeals filed by an entity as defined in Section 60-4, counsel of record shall include a current certificate of interested entities or individuals in the appellant's brief.

(**[**i**]** j) The appellant's brief shall be organized in the following order: if the appeal is in a civil matter and the appeal was filed by an entity, a current certificate of interested entities or individuals as defined in Section 60-4; table of contents; statement of issues; table of authorities; if the appeal was filed pursuant to Section 81-4, statement identifying version of land use regulations filed with the appellate clerk; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

COMMENTARY: These amendments describe when a certificate of interested entities or individuals is required to be filed and dictate the order in which such certificate is to appear in the appellant's brief.

Sec. 67-5. The Appellee's Brief; Contents and Organization

The brief of the appellee shall contain, in a form corresponding to that stated in Section 67-4, the following:

(a) A table of contents.

(b) A counterstatement of any issue involved as to which the appellee disagrees with the statement of the appellant or a statement of any other grounds which were properly raised by an appellee under Section

63-4. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of the issues.

(c) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.

(d) A counter statement of any fact as to which the appellee disagrees with the statement of the appellant. The counter statement of facts shall be in narrative form and shall be supported by appropriate references to the page or pages of the transcript or to the relevant document upon which the appellee relies. An appellee may not rely on any fact unless it is set forth in the appellee's counter statement of facts or in the appellant's statement of facts or is incorporated in any brief of the parties in accordance with Section 67-4 (e) or with subsection (e) hereof.

(e) The argument of the appellee, divided as provided in Section 67-4 (e). The argument on each point shall include a separate, brief statement of the standard of review the appellee believes should be applied. The argument may augment or take exception to the appellant's presentation of rulings or the charge by reference to any relevant part of the court's charge or any other evidence in narrative or verbatim form which is relevant to such question, with appropriate references to the statements of facts or to the page or pages of the transcript or to the relevant document.

(f) Claims, if any, directed to any rulings or decisions of the trial court adverse to the appellee. These shall be made in the manner provided in Section 67-4 (e).

(g) A short conclusion stating the precise relief sought.

(h) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellee relies. Such text need not be included in the brief if it is included in the appellant's brief or appendix or in the appendix to the appellee's brief.

(i) In appeals filed pursuant to Section 81-4, a statement as to whether the appellee disputes the applicability of the version of the land use regulations filed with the appellate clerk. If the appellee disputes the applicability of such regulations, it shall set forth its basis for maintaining that such regulations do not apply.

(j) If the appellee is an entity as defined in Section 60-4, counsel of record shall include a current certificate of interested entities or individuals in the appellee's brief.

(**[**j**]** k) The appellee's brief shall be organized in the following order: if the appeal in a civil matter was filed by an entity, a current certificate of interested entities or individuals as defined in Section 60-4; table of contents; statement of issues; table of authorities; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

(**[**k**]** *l*) When the appellee is also the cross appellant, the issues on the cross appeal shall be briefed in accordance with Section 67-4. In such a case, the briefs shall clearly label which sections of the brief refer to the appeal and which refer to the cross appeal.

COMMENTARY: These amendments describe when a certificate of interested entities or individuals is required to be filed and dictate the order in which such certificate is to appear in the appellee's brief.

Sec. 67-7. The Amicus Curiae Brief

(Applicable to appeals filed before October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. If the applicant in a civil appeal is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the application. The length of the brief shall not exceed ten pages unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of ten pages. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae. If the appeal is in a civil matter and the amicus curiae is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be included in the brief.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

COMMENTARY: These amendments describe when a certificate of interested entities or individuals is required to be filed and the requirement that such a certificate shall be included in an amicus brief filed in a civil matter.

Sec. 67-7A. The Amicus Curiae Electronic Brief

(Applicable to appeals filed on or after October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court unless Section 67-7A (f) applies. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. If the applicant in a civil appeal is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the application. The length of the brief shall not exceed 4000 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of 4000 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae. If the appeal is in a civil matter and the amicus curiae is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be included in the brief.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

COMMENTARY: These amendments describe when a certificate of interested entities or individuals is required to be filed and the requirement that such a certificate shall be included in an amicus brief filed in a civil matter.

CHAPTER 70
ARGUMENTS AND MEDIA COVERAGE OF COURT PROCEEDINGS

Sec. 70-1. Oral Argument; Videoconferencing of Oral Argument in Certain Cases

(a) Oral argument will be allowed as of right in all appeals except as provided in subsection (b) of this rule.

(b) In civil cases where: (1) the dispositive issue or set of issues has been recently authoritatively decided; or (2) the facts and legal arguments are adequately presented in the briefs and the decisional process would not be significantly aided by oral argument, notice will be sent to counsel of record that the case will be decided on the briefs and record only. This notice will be issued after all briefs and appendices, if any, have been filed. Any party may file a request for argument stating briefly the reasons why oral argument is appropriate and shall do so within ten **[**seven**]** days of the issuance of the court's

notice. After receipt and consideration of such a request, the court will either assign the case for oral argument or assign the case for disposition without oral argument, as it deems appropriate.

(c) In matters involving incarcerated self-represented parties, oral argument may be conducted by videoconference upon direction of the court in its discretion.

COMMENTARY: The purpose of this amendment is to increase the time from seven to ten days to file a request for oral argument following the issuance of notice from the court that the case will be decided on briefs and the record only.

Sec. 70-4. Time Allowed for Oral Argument; Who May Argue

Unless the court grants a request for additional time made before oral argument begins, argument of any case shall not exceed **[**one-half hour**]** thirty minutes on each side in the Supreme Court and twenty minutes on each side in the Appellate Court. The time allowed may be apportioned among counsel on the same side of a case as they may choose. The court may terminate the argument whenever in its judgment further argument is unnecessary.

Prior to the date assigned for hearing, counsel of record may file a request with the appellate clerk to allow more than one counsel to present oral argument for one party to the appeal.

In cases in which there is a firm appearance, or in which there are multiple appearances for the same party, if an attorney from the appearing firm or who already has an appearance wishes to argue the appeal but is not identified as the arguing attorney on the brief, the attorney who will be arguing the appeal shall file a letter notifying the court of the change as soon as possible prior to argument.

No argument shall be allowed any party who has not filed a brief or who has not joined in the brief of another party.

COMMENTARY: The intent of these amendments is to clearly state in the rules the different practices of the Supreme and Appellate Courts with respect to the time allotted for oral arguments.

Sec. 70-9. Coverage of Court Proceedings by Cameras and Electronic Media

(a) The broadcasting, televising, recording or photographing of proceedings in the Supreme or Appellate Court by the media as defined in Section 1-10A should be allowed unless the panel of jurists partially or totally excludes coverage in the interests of the administration of justice. **[**Except for those matters enumerated in subsection (c) of this rule, all judicial courtroom proceedings in the Supreme and Appellate Courts are presumed to be subject to coverage by cameras and electronic media.**]**

(b) Unless good cause is shown, any media or pool representative who has been approved as media pursuant to Section 1-10A and wishes to broadcast, televise, record or photograph a Supreme or Appellate Court proceeding shall send an e-mail request for electronic coverage to a person designated by the chief court administrator to receive such requests at least three business days prior to the commencement of the proceeding. Said designee shall promptly transmit any such request to the panel of jurists assigned to hear the matter. **[**(1) All such proceedings may be broadcast, televised, videotaped, audio recorded or photographed unless: (A) the panel of jurists grants a motion by a party or a victim in a case requesting the limitation or

preclusion of such coverage, or (B) the panel of jurists, on its own motion, limits or precludes such coverage. The right to permit or to exclude coverage, whether partially or totally, at any time in the interests of the administration of justice shall remain with the panel of jurists.

(2) Any party or victim who desires to file a motion to limit or preclude coverage shall do so not later than one week before the start of the term for which the case is subject to being assigned, as indicated on a docket pursuant to Section 69-1. The party or victim shall deliver a copy of such motion to each counsel of record and to any other victim in the case. The party or victim shall give notice to any such victim by notifying the state's attorney in a criminal case, the attorney or guardian ad litem for a minor child in cases involving a minor victim or child represented by an attorney or guardian ad litem, and to any other victim or child by notifying the office of the victim advocate. Endorsed on the motion shall be certification of such delivery. The appellate clerk shall refer any such motion to the panel of jurists for review as soon as the panel is determined. The panel of jurists may consider a late motion to limit or preclude coverage. Prior to acting on such motion, the panel of jurists shall provide any media outlet expected to cover the proceeding an opportunity to respond in writing to the motion.

(3) In acting on such motion or on its own motion, the panel of jurists will apply the presumption that all judicial courtroom proceedings in the Supreme and Appellate Courts are subject to coverage by cameras and electronic media. In addition, it will be guided by the principles that such coverage should be limited only if there is good cause to

do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the competing interests at issue.

(4) In acting on such motion or its own motion, the panel of jurists will conclude that the presumption in favor of coverage by cameras and electronic media has been overcome only if it is satisfied that good cause exists for a limitation or preclusion on coverage. If the panel of jurists orders a limitation or preclusion on coverage, it will provide a statement of its reasons. A statement may be written or stated on the record in open court.**]**

(c) The right to permit or to exclude coverage, whether partially or totally, shall remain with the panel of jurists.

[(c) (1)**]** (d) In any case involving: **[**The presumption in favor of coverage shall not apply to cases involving:**]** **[**(A)**]** (1) sexual assault; **[**(B)**]** (2) risk of injury to, or impairing the morals of, a child; **[**(C)**]** (3) abuse or neglect of a child; **[**(D)**]** (4) termination of parental rights; and **[**(E)**]** (5) contested questions of child custody or visitation, counsel of record shall not disclose any information that would likely publicly reveal the identity or location of the protected parties during the proceeding.

[(2) In cases to which the presumption in favor of coverage does not apply, any person may request such coverage by filing a motion not later than one week before the start of the term for which the case is subject to being assigned, as indicated on the docket pursuant to Section 69-1. The applicant shall deliver a copy of such written request to each counsel of record and to any victim or child in the case. The

applicant shall give notice to any such victim by notifying the state's attorney in a criminal case, the attorney or guardian ad litem for a minor child in cases involving a minor victim or child represented by an attorney or guardian ad litem, and to any other victim or child by notifying the office of the victim advocate. Endorsed on the motion shall be a certification of such delivery. The appellate clerk shall refer any such motion to the panel of jurists for review as soon as the panel is determined. The panel of jurists may consider a late motion requesting coverage. Prior to acting on such motion, the panel of jurists shall provide the parties, any such minor children and any victims of the offense an opportunity to respond in writing to the motion. The panel of jurists shall grant the motion only if it is satisfied that the need for such coverage outweighs the privacy interests involved in the case.

(d) The Supreme and Appellate Courts shall establish appropriate protocols governing the number, location and use of all forms of coverage consistent with these rules.**]**

(e) If there are multiple requests to broadcast, televise, record or photograph the same proceeding, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the panel of jurists. The panel of jurists shall not mediate any disputes among the media regarding pooling arrangements.

[(e)**]** (f) As used in this rule, ''panel of jurists'' means the justices or judges assigned to hear a particular case.

COMMENTARY: The purpose of these amendments is to conform the rule to the current practice before the Supreme Court, and to instruct counsel of record not to disclose in certain cases the identity or location of protected parties.

CHAPTER 72

WRITS OF ERROR

Sec. 72-1. Writs of Error; In General

(a) Writs of error for errors in matters of law only may be brought from a final judgment of the Superior Court to the Appellate Court in the following cases: (1) a decision binding on an aggrieved nonparty; (2) a summary decision of criminal contempt; (3) a denial of transfer of a small claims action to the regular docket; and (4) as otherwise necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law.

(b) No writ of error may be brought in any civil or criminal proceeding for the correction of any error where (1) the error might have been reviewed by process of appeal, or by way of certification, or (2) the parties, by failure timely to seek a transfer or otherwise, have consented to have the case determined by a court or tribunal from whose judgment there is no right of appeal or opportunity for certification.

(c) If an entity as defined in Section 60-4 is a plaintiff in error or a defendant in error, counsel for that entity shall file a certificate of interested entities or individuals.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

Sec. 72-3. Applicable Procedure

(a) The writ of error, if in proper form, shall be allowed and signed by a judge or clerk of the court in which the judgment or decree was rendered. The writ of error shall be presented for signature within twenty days of the date notice of the judgment or decision complained of is given but shall be signed by the judge or clerk even if not presented in a timely manner. Failure without cause to present the writ of error in a timely manner maybe a ground for dismissal of the writ of error by the court having appellate jurisdiction.

(b) The writ of error shall be served and returned as other civil process, except that the writ of error shall be served at least ten days before the return day and shall be returned to the appellate clerk at least one day before the return day. The return days are any Tuesday not less than twelve nor more than thirty days after the writ of error is signed by a judge or clerk of the court.

(c) The writ of error shall be deemed filed the day it is properly returned to the appellate clerk. The plaintiff in error shall return the writ of error to the appellate clerk by (1) complying with Section 60-7 or 60-8 by paying the required fee, submitting a signed application for waiver of fees and the order of the trial court granting the fee waiver, or certifying that no fees are required; (2) submitting the matter in accordance with the provisions of Section 63-3; and (3) submitting the allowed and signed writ of error and the signed marshal's return to the appellate clerk.

(d) An electronically filed writ of error will be docketed upon the submission of the matter in accordance with Section 63-3 but will be

rejected upon review by the appellate clerk if the plaintiff in error fails to comply with Section 60-7 or to submit an allowed and signed writ of error and the signed marshal's return on the same business day the matter is submitted in accordance with the provisions of Section 63-3. The writ of error may also be returned upon review by the appellate clerk for noncompliance with the Rules of Appellate Procedure. The appellate clerk shall forthwith give notice to all parties of the filing of the writ of error.

(e) If the writ of error is brought against a judge of the Superior Court to contest a summary decision of criminal contempt by that judge, the defendant in error shall be the Superior Court. In all other writs of error, the writ of error shall bear the caption of the underlying action in which the judgment or decision was rendered. All parties to the underlying action shall be served in accordance with chapter 8 of these rules.

(f) Within ten **[**twenty**]** days of **[**after**]** filing a **[**the**]** writ of error, the plaintiff in error shall file with the appellate clerk

(1) a certificate stating that no transcript is deemed necessary or a transcript order confirmation from the official court reporter in compliance with Section 63-4 (a). If any other party deems any other parts of the transcript necessary that were not ordered by the plaintiff in error, that party shall, within twenty days of the filing of the plaintiff in error's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8 or 63-8A.

(2) A docketing statement in compliance with Section 63-4 (a). If additional information is or becomes known to, or is reasonably ascer-

tainable by the defendant in error, the defendant in error shall file a docketing statement supplementing the information required to be provided by the plaintiff in error.

(g) Within twenty days of filing a writ of error, the plaintiff in error shall file with the appellate clerk such documents as are necessary to present the claims of error made in the writ of error, including pertinent pleadings, memoranda of decision and judgment file, accompanied by a certification that a copy thereof has been served on each counsel of record in accordance with Section 62-7.

[(g) In the event a transcript is necessary, the plaintiff in error shall follow the procedure set forth in Sections 63-8 and 63-8A.**]**

(h) Within ten days of the filing by the plaintiff in error of the documents referred to in subsection**[**s (f) and**]** (g) of this rule, the defendant in error may file such additional documents as are necessary to defend the action, accompanied by a certification that a copy thereof has been served on each counsel of record in accordance with Section62-7.

(i) Answers or other pleas shall not be filed in response to any writ of error.

(j) Briefing is in accordance with Section 67-1 et seq. in which the rules applicable to appellants shall apply to plaintiffs in error, and the rules applicable to appellees shall apply to defendants in error.

COMMENTARY: The purpose of these amendments is to require a plaintiff in error to file a certificate regarding transcripts and a docketing statement within ten days of filing a writ of error for consistency with Section 63-4 (a) and to clarify that briefing is to be in accordance with the rules applicable to appeals.

CHAPTER 73

RESERVATIONS

Sec. 73-1. Reservation of Questions from the Superior Court to the Supreme Court or Appellate Court; Contents of Reservation Request

(a) Counsel may jointly file with the Superior Court a request to reserve questions of law for consideration by the Supreme Court or Appellate Court. A reservation request shall set forth: (1) a stipulation of the essential undisputed facts and a clear and full statement of the question or questions upon which advice is desired; (2) a statement of reasons why the resolution of the question by the appellate court having jurisdiction would serve the interest of simplicity, directness and judicial economy; and (3) whether the answers to the questions will determine, or are reasonably certain to enter into the final determination of the case. All questions presented for advice shall be specific and shall be phrased so as to require a Yes or No answer.

(b) Reservation requests may be brought only in those cases in which an appeal could have been filed directly to the Supreme Court, or to the Appellate Court, respectively, had judgment been rendered. Reservations in cases where the proper court for the appeal cannot be determined prior to judgment shall be filed directly to the Supreme Court.

(c) If one of the parties to the reservation request in a civil matter is an entity as defined in Section 60-4, the reservation request must also include a certificate of interested entities or individuals filed by counsel of record for that entity.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

CHAPTER 77

PROCEDURES CONCERNING COURT CLOSURE AND SEALING ORDERS OR ORDERS LIMITING THE DISCLOSURE OF FILES, ADDIDAVITS, DOCUMENTS OR OTHER MATERIAL

Sec. 77-2. Sealing Orders; Treatment of Lodged Records

(a) When, by order of the trial court or by operation of statute, a trial court file is sealed or is subject to limited disclosure, all filings with the appellate clerk in that matter shall be treated similarly unless otherwise ordered by the court having appellate jurisdiction. Any sealing or limitation on disclosure ordered by the trial court or required by operation of statute as to any affidavit, document or other material filed in the trial court shall continue throughout the appellate process.

(b) If a party includes material in a brief or appendix that is sealed or subject to limited disclosure, that party shall file a redacted brief and appendix, if any, to be made available to the public, and an unredacted brief and appendix, if any, to be made available to only the parties and the court. Both the redacted and unredacted brief and appendix shall be filed in accordance with the applicable provisions of Section 67-2 or Section 67-2A, except that only one paper copy of the redacted brief and appendix is required. Prior to filing, counsel of record shall file a letter notifying the court that the briefs and appendices will be filed pursuant to this subsection. This subsection shall not apply to briefs or appendices filed in child protection matters pursuant to Section 79a-6, or where the only redacted material are names or other

personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.

([b] c) If a claim is raised on appeal challenging the denial of a motion to seal or limit disclosure pursuant to Section 7-4B (d), a lodged record shall remain conditionally under seal in the court having appellate jurisdiction and shall be treated as an exhibit pursuant to the provisions of Section 68-1.

COMMENTARY: The purpose of the new subsection (b) is to facilitate the process by which a party can file an unredacted appellate brief when that party wishes to discuss matters that are subject to a sealing order.

(NEW) CHAPTER 78b
REVIEW OF ORDERS DENYING APPLICATION FOR WAIVER OF FEES TO COMMENCE A CIVIL ACTION OR A WRIT OF HABEAS CORPUS

COMMENTARY: This new chapter would implement review by the Appellate Court of an order denying an application for a fee waiver for the commencement of a civil action or the filing of a petition for a writ of habeas corpus, contingent on the General Assembly's passing of proposed legislation authorizing such review.

(NEW) Sec. 78b-1. Petition for Review of Order Denying Application for Waiver of Fees to Commence a Civil Action or a Writ of Habeas Corpus

Any person aggrieved by an order of the Superior Court denying an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or a writ

of habeas corpus in the Superior Court may petition the Appellate Court for review of such an order after a hearing pursuant to the provisions of Section 8-2 (d) and a decision thereon.

Petitions for review of the denial of an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or writ of habeas corpus must conform to the requirements for motions for review set forth in Section 66-6 and are subject to transfer to the Supreme Court pursuant to Section 65-3.

COMMENTARY: This new section would implement review by the Appellate Court of an order denying an application for a fee waiver for the commencement of a civil action or the filing of a petition for a writ of habeas corpus, contingent on the General Assembly's passing of proposed legislation authorizing such review.

CHAPTER 79a

APPEALS IN CHILD PROTECTION MATTERS

Sec. 79a-3. Filing of the Appeal

(a) **General provisions**

Appeals in child protection matters shall be filed in accordance with the provisions of Section 63-3 and all required fees shall be paid in accordance with Sections 60-7 and 60-8.

(b) **Appeal by indigent party**

If a trial attorney who has provided representation to an indigent party through the Division of Public Defender Services declines to pursue an appeal, that attorney shall ascertain that the indigent party expressly wishes to appeal and obtain the indigent party's current address, e-mail address and telephone number. The trial attorney

shall explain to the indigent party the appellate review process set forth in this section. The trial attorney shall within twenty days of the decision or judgment simultaneously file with the court before which the matter was heard a motion for an additional twenty or forty day extension of time to appeal pursuant to Section 79a-2 (a) and (e), a sworn application signed by the indigent party for appointment of appellate counsel and a waiver of fees, costs and expenses, including the cost of an expedited transcript. If the court finds the indigent party still to be indigent, the court shall not grant the application for appointment of appellate counsel but shall first appoint an appellate review attorney for the sole purpose of determining whether there is any nonfrivolous ground on which to appeal. The trial attorney shall immediately request an expedited transcript from an official court reporter or court recording monitor in accordance with Section 79a-5, the cost of which shall be paid for by the Division of Public Defender Services.

Any party who is indigent who wishes to appeal and was not provided with representation by the Division of Public Defender Services during the proceeding which resulted in the decision or judgment from which an appeal is being sought shall, within twenty days of the decision or judgment, simultaneously file with the court before which the matter was heard a motion for an additional twenty or forty day extension of time to appeal pursuant to Section 79a-2 (a) and (e), a sworn application signed by the indigent party for appointment of appellate counsel and a waiver of fees, costs, and expenses, including the cost of an expedited transcript. If the court finds the party to be indigent, the court

shall not grant the application for appointment of appellate counsel but shall first appoint an appellate review attorney for the sole purpose of determining whether there is any nonfrivolous ground on which to appeal. The indigent party shall immediately request an expedited transcript from the official court reporter or court recording monitor in accordance with Section 79a-5, the cost of which shall be paid for by the Division of Public Defender Services.

(c) **Review by the Division of Public Defender Services**

(1) An appellate review attorney determining whether there is a nonfrivolous ground for appeal shall file a limited ''in addition to'' appearance with the trial court for the purpose of that determination. If the appellate review attorney determines that there is a nonfrivolous ground on which to appeal, that attorney shall notify the court, and the application for appellate counsel shall be granted by the court. The appellate counsel so appointed shall file a limited ''in addition to'' appearance with the trial court for the purpose of prosecuting the appeal and shall file the appeal in accordance with Section 63-3.

(2) In a child protection proceeding that has not resulted in the termination of parental rights, if the appellate review attorney determines that there is no nonfrivolous ground on which to appeal, that attorney shall promptly make this determination known to the indigent party, the judicial authority and the Division of Public Defender Services. The reviewing attorney shall inform the indigent party, by letter, of his or her determination and of the balance of the time remaining to file an appeal as a self-represented party or to secure counsel, who may file an appearance to represent the indigent party on appeal at the indigent party's own expense. A copy of the letter shall be filed with the clerk for juvenile matters forthwith.

(3) In a termination of parental rights proceeding, if the appellate review attorney determines that there is no nonfrivolous ground on which to appeal, that attorney immediately shall file, underseal, a motion for in-court review, which shall indicate that the appellate review attorney has thoroughly reviewed the record for potential errors and set forth the least meritless grounds that might arguably support an appeal and the factual and legal bases for the conclusion that an appeal would be frivolous. Simultaneous with the filing of the motion for in-court review, the appellate review attorney shall provide a copy of such motion to the indigent party seeking to appeal and shall serve counsel of record and the Division of Public Defender Services with a written notice that a motion for an in-court review by the appellate review attorney has been filed, but shall not serve counsel of record or the Division of Public Defender Services with a copy of the motion or any supporting documentation. The clerk for juvenile matters shall schedule a hearing on the motion for in-court review with the presiding judge or other judge designated to hear the motion within ten days of the date of its filing.

(4) Unless the presiding judge was also the trial judge or is unavailable, the presiding judge shall conduct a nonevidentiary hearing to fully examine the motion for an in-court review and any argument or response by the indigent party, together with any relevant portions of the record. The presiding judge shall afford the indigent party an adequate opportunity to bring to the court's attention what he or she believes are appealable issues. In his or her discretion, such judge may require briefing. The hearing shall be closed except that the appellate review attorney and the indigent party shall attend. If the indigent party cannot attend the hearing for good cause shown, he or

she may file, under seal, a written response to the motion for an in-court review prior to the date of the hearing. Absent compelling circumstances, the hearing shall not be continued if the indigent party does not appear.

(A) If, after the in-court review, the presiding judge independently concludes that any appeal would be frivolous, such judge, within fourteen days of the date of the hearing, shall issue a decision, either written or oral, denying the indigent party's application for appellate counsel and setting forth the basis for his or her finding that an appeal would be frivolous. Any written or transcribed oral decision of the presiding judge shall be filed under seal. The presiding judge also shall order the appellate review attorney to inform the indigent party, by letter, of the decision and to provide a copy of the decision to the indigent party. The appellate review attorney shall also advise the indigent party of the balance of the time remaining to file a motion for review and/or an appeal as a self-represented party or to secure counsel who may file an appearance to represent the indigent party for purposes of filing a motion for review and/or an appeal at the indigent party's own expense. A copy of the letter shall be filed with the clerk for juvenile matters forthwith. An indigent party may seek review of a denial of an application for appointment of appellate counsel on the basis of a finding by the presiding judge that any appeal would be frivolous solely by filing, under seal, a motion for review pursuant to Section 79a-2 (d). The Appellate Court shall expeditiously consider any such motion for review.

(B) If, after the in-court review, the presiding judge concludes that the indigent party's appeal is not frivolous, such judge shall grant the application for appointment of appellate counsel.

(5) Any presiding judge who also was the trial judge or is unavailable shall refer a motion for in-court review filed by an appellate review attorney to the chief administrative judge for juvenile matters for assignment to another judicial authority. If such presiding judge is also the chief administrative judge for juvenile matters, then the motion for in-court review shall be referred by the presiding judge to the administrative judge in the judicial district where the juvenile court hearing the motion for in-court review is located for assignment to another judicial authority.

(d) **Duties of clerk for juvenile matters for cases on appeal**

The appellate clerk shall send notice to the clerk for juvenile matters and to the clerk of any trial court to which the matter was transferred that an appeal has been filed. Upon receipt of such notice, the clerk for juvenile matters shall send a copy of the appeal form and the case information form to the Commissioner of Children and Families, to the petitioner upon whose application the proceedings in the Superior Court were instituted, unless such party is the appellant, to any person or agency having custody of any child who is a subject of the proceeding, to the Division of Public Defender Services, and to all other interested persons; and if the addresses of any such persons do not appear of record, the clerk for juvenile matters shall call the matter to the attention of a judge of the Superior Court, who shall make such an order of notice as such judge deems advisable.

COMMENTARY: This amendment is in response to *In re Taijha H.B.*, 333 Conn. 297 (2019), in which the court indicated that an indigent party who did not have appointed counsel at trial and who

applies for the appointment of appellate counsel is entitled to an appellate review attorney for the purpose of determining whether there is a nonfrivolous ground on which to appeal.

Sec. 79a-9. Oral Argument

(a) Oral argument will be allowed as of right except as provided in subsection (b) of this rule.

(b) In child protection appeals as defined by Section 79a-1 where (1) the dispositive issue or set of issues has been recently authoritatively decided, or (2) the facts and legal arguments are adequately presented in the briefs and the decisional process would not be significantly aided by oral argument, notice will be sent to counsel of record that the case will be decided on the briefs and record only. This notice will be issued after all briefs and appendices have been filed. Any party may file a request for argument stating briefly the reasons why oral argument is appropriate and shall do so within ten **[**seven**]** days of the issuance of the court's notice. After receipt and consideration of such a request, the court will either assign the case for oral argument or assign the case for disposition without oral argument, as it deems appropriate.

(c) In matters involving incarcerated self-represented parties, oral argument may be conducted by videoconference upon direction of the court in its discretion.

COMMENTARY: The purpose of this amendment is to increase the time from seven to ten days to file a request for oral argument following the issuance of notice from the court that the case will be decided on briefs and the record only.

CHAPTER 81

APPEALS TO APPELLATE COURT BY CERTIFICATION FOR REVIEW IN ACCORDANCE WITH GENERAL STATUTES CHAPTERS 124 AND 440

Sec. 81-2. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail.

(2) A statement of the basis for certification identifying the specific reasons why the Appellate Court should allow the extraordinary relief of certification. These reasons may include but are not limited to the following:

(A) The court below has decided a question of substance not theretofore determined by the Supreme Court or the Appellate Court or has decided it in a way probably not in accord with applicable decisions of the Supreme Court or the Appellate Court.

(B) The decision under review is in conflict with other decisions of the court below.

(C) The court below has so far departed from the accepted and usual course of judicial proceedings, or has so far sanctioned such a departure by any other court, as to call for an exercise of the Appellate Court's supervision.

(D) A question of great public importance is involved.

(3) A summary of the case containing the facts material to the consideration of the questions presented, reciting the disposition of the matter in the trial court, and describing specifically how the trial court decided the questions presented for review in the petition.

(4) A concise argument amplifying the reasons relied upon to support the petition. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix containing a table of contents, the operative complaint, all briefs filed by all parties, the opinion or order of the trial court sought to be reviewed, a copy of the order on any motion, other than a motion for extension of time, which would stay or extend the time period for filing the petition, and a list of all parties to the appeal in the trial court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their counsel. If a petitioner in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix. The appendix shall be paginated separately from the petition with consecutively numbered pages preceded by the letter ''A.''

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in petitions: Arial and Univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.

COMMENTARY: The amendments to this section clarify that, insofar as orders are not issued in connection with motions for extensions of

time, those motions are exempt from the rule, and also describe when a certificate of interested entities or individuals is required to be filed.

Sec. 81-3. Statement in Opposition to Petition

(a) Within ten days of the filing of the petition, any party may file a statement in opposition with the appellate clerk stating the reasons why certification should not be granted. The statement shall be presented in a manner which is responsive, in form and content, to the petition it opposes. The statement in opposition shall not exceed ten pages in length, except with special permission of the appellate clerk. The statement in opposition shall be typewritten and fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4inch; right, 1/2 inch; and bottom, 1 inch.

No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

(d) If the party in a civil matter filing the opposition is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

CHAPTER 82

CERTIFIED QUESTIONS TO OR FROM COURTS OF OTHER JURISDICTIONS

Sec. 82-3. Contents of Certification Request

A certification request shall set forth: (1) The questions of law to be answered; (2) a finding or stipulation approved by the court setting forth all facts relevant to answering the questions certified and showing fully the nature of the controversy in which the questions arose; (3) that the receiving court may reformulate the questions; and (4) the names and addresses of counsel of record.

The questions presented should be such as will be determinative of the case, and it must appear that their present determination would be in the interest of simplicity, directness and economy of judicial action.

All questions presented shall be specific and shall be phrased so as to require a Yes or No answer, wherever possible.

If one of the parties to the certification request in a civil matter is an entity as defined in Section 60-4, the certification request must also include a certificate of interested entities or individuals filed by counsel of record for that entity.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

CHAPTER 83

CERTIFICATION PURSUANT TO GENERAL STATUTES § 52-265a IN CASES OF SUBSTANTIAL PUBLIC INTEREST

Sec. 83-1. Application; In General

Within two weeks of the issuance of an order or decision of the Superior Court involving a matter of substantial public interest pursuant to General Statutes § 52-265a, any party may file an application for certification by the chief justice. The application for certification shall contain: (1) the question of law on which the appeal is to be based; (2) a description of the substantial public interest that is alleged to be involved; (3) an explanation as to why delay may work a substantial injustice; and (4) an appendix with: (A) the decision or order of the Superior Court sought to be appealed and (B) a list of all parties to the case in the Superior Court with the names, addresses, telephone numbers, e-mail addresses and, if applicable, the juris numbers of their counsel. If the party in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix.

Using an expeditious delivery method such as overnight mail or facsimile or other electronic medium, in addition to the certification requirements of Section 62-7, the party submitting the application shall also notify the trial judge and the clerk of the trial court that rendered the decision sought to be appealed.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

CHAPTER 84
APPEALS TO SUPREME COURT BY CERTIFICATION FOR REVIEW

Sec. 84-5. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A brief introduction providing context for the statement of the questions presented for review.

(2) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The Supreme Court will ordinarily consider only those questions squarely raised, subject to any limitation in the order granting certification.

(3) A brief history of the case containing the facts material to the consideration of the questions presented, including the disposition of the matter in the Appellate Court, and if applicable, a specific description of how the Appellate Court decided the questions presented for review in the petition.

(4) A concise argument expanding on the bases for certification, as presented in Section 84-2, and explaining why the Supreme Court should allow the extraordinary relief of certification. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix, which shall be paginated separately from the petition with consecutively numbered pages preceded by the letter ''A,'' containing:

(A) a table of contents,

(B) the opinion, preferably as published in the Connecticut Law Journal, or order of the Appellate Court sought to be reviewed,

(C) if the opinion or order of the Appellate Court was per curiam or a summary affirmance or dismissal, a copy of the trial court's memorandum of decision that was entered in connection with the claim raised by the petitioner before the Appellate Court, or, if no memorandum was filed, a copy of the trial court's ruling on the matter,

(D) a copy of the order on any motion, other than a motion for extension of time, which would stay or extend the time period for filing the petition,

(E) a list of all parties to the appeal in the Appellate Court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their trial and appellate counsel. If one of the parties in a civil action is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals.

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in petitions: Arial and Univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch.

COMMENTARY: The amendments to this section express the preference of the justices of the Supreme Court for the version of the Appellate Court opinion published in the Connecticut Law Journal, clarify that, insofar as orders are not issued in connection with motions

for extensions of time, those motions are exempt from the rule, and describe when a certificate of interested entities or individuals is required to be filed.

Sec. 84-6. Statement in Opposition to Petition

(a) Within ten days of the filing of the petition, any party may file a statement in opposition to the petition with the appellate clerk. The statement in opposition shall disclose any reasons why certification should not be granted by the Supreme Court and shall be presented in a manner which is responsive, in form and content, to the petition it opposes. The statement in opposition shall not exceed ten pages in length except with special permission of the appellate clerk.

The statement in opposition shall be typewritten and fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch. No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

(d) If the party filing the opposition in a civil action is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.

COMMENTARY: This amendment describes when a certificate of interested entities or individuals is required to be filed.

(NEW) Sec. 84-10A. Record

Those portions of the record for the appeal to the Appellate Court relevant to the issue certified by the Supreme Court shall be included in the clerk appendix, which shall be prepared and distributed in accordance with Section 68-2 et seq. In addition, the clerk appendix shall include the order granting certification, the opinion or order of the Appellate Court under review and, to the extent the appellate clerk deems appropriate, any papers subsequently filed pursuant to Section 84-11.

COMMENTARY: This new section details what constitutes the record in an appeal to the Supreme Court following the granting of a petition for certification to appeal.

Sec. 84-11. Papers To Be Filed by Appellant and Appellee in an Appeal After Certification

(a) Within ten days of filing the appeal, the appellant shall also file a docketing statement pursuant to Section 63-4 (a) (4) and a designation of the proposed contents of the clerk appendix pursuant to Section 63-4 (a) (2). The parties shall not file other Section 63-4 papers on a certified appeal without permission of the Supreme Court.

(**[**a**]**b) **[**Upon the granting of certification,**]** Within ten days of the filing of the appeal, the appellee may **[**present for review**]** file a statement

of alternative grounds for affirmance or adverse rulings or decisions to be considered in the event of a new trial, [upon which the judgment may be affirmed provided those grounds were raised and briefed in the Appellate Court. Any party to the appeal may also present for review adverse rulings or decisions which should be considered on the appeal in the event of a new trial,] provided that such party has raised such claims in the Appellate Court. If such alternative grounds for [affirmation] affirmance or adverse rulings or decisions to be considered in the event of a new trial were not raised in the Appellate Court, the party seeking to raise them in the Supreme Court must move for special permission to do so prior to the filing of that party's brief. Such permission will be granted only in exceptional cases where the interests of justice so require.

([b]c) Any party may also present for review any claim that the relief afforded by the Appellate Court in its judgment should be modified, provided such claim was raised in the Appellate Court either in such party's brief or upon a motion for reconsideration.

[(c) Any party desiring to present alternative grounds for affirmance, adverse rulings or decisions in the event of a new trial or a claim concerning the relief ordered by the Appellate Court shall file a statement thereof within fourteen days from the date the certified appeal is filed in accordance with Section 84-9.

(d) Except for a docketing statement, parties shall not file other Section 63-4 papers on a certified appeal without permission of the Supreme Court.]

COMMENTARY: These amendments clarify the papers to be filed upon the granting of a petition for certification to appeal by the Supreme Court.