Practice Book Amendments

Code of Judicial Conduct

Superior Court Rules

June 20, 2023

NOTICE

Superior Court

On June 9, 2023, the judges of the Superior Court adopted the amendments to the Practice Book contained in this Notice. Those amendments become effective on January 1, 2024, except that new Section 21-25 becomes effective upon publication in this Connecticut Law Journal on June 20, 2023.

Attest:

Joseph J. Del Ciampo
Counsel to the Rules Committee
Director of Legal Services

INTRODUCTION

Contained herein are amendments to the Code of Judicial Conduct and the Superior Court Rules. These amendments are indicated by brackets for deletions and underlines 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 Practice Book until the next edition becomes available.

The Amendment Notes to the Code of Judicial Conduct and the Commentaries to the Superior Court Rules are for informational purposes only.

Rules Committee of the
Superior Court

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AMENDMENTS TO THE CODE OF JUDICIAL CONDUCT

Rule 2.11. Disqualification

(a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned including, but not limited to, the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(A) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) acting as a lawyer in the proceeding;

(C) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The judge has made a public statement, other than in a court proceeding, judicial decision, or opinion that commits or appears to

commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judge:

(A) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(B) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; or

(C) was a material witness concerning the matter.

(b) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(c) A judge subject to disqualification under this Rule, other than for bias or prejudice under subsection (a) (1), may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification, provided that the judge shall disclose on the record the basis of such disqualification. If, following the disclosure, the parties and lawyers agree, either in writing or on the record before another judge, that the judge should not be disqualified, the judge may participate in the proceeding.

(d) Notwithstanding the foregoing, a judge may contribute to a client security fund maintained under the auspices of the court, and such

contribution will not require that the judge disqualify himself or herself from service on such a client security fund committee or from participation in a lawyer disciplinary proceeding or in any matter concerning restitution or subrogation relating to such a client security fund.

(e) A judge is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the Judicial Review Council or an administrative agency. When the judge becomes aware pursuant to Practice Book Sections 1-22 (b), [or] 4-8, 66-9, or otherwise that such a lawsuit or complaint has been filed against him or her, the judge shall[, on the record, disclose that fact to the lawyers and parties to the proceeding before such judge, and the judge shall thereafter] proceed in accordance with Practice Book Section 1-22 (b) or 66-9.

(f) The fact that the judge was represented or defended by the attorney general in a lawsuit that arises out of the judge's judicial duties shall not be the sole basis for recusal by the judge in lawsuits where the attorney general appears.

COMMENT: (1) Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsections (a) (1) through (5) apply. In many jurisdictions, the term ''recusal'' is used interchangeably with the term ''disqualification.''

(2) A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

(3) The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

(4) The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under subsection (a) or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under subsection (a) (2) (C), the judge's disqualification is required.

(5) The Rule does not prevent a judge from relying on personal knowledge of historical or procedural facts acquired as a result of presiding over the proceeding itself.

(6) Subsection (d) is intended to make clear that the restrictions imposed by *Dacey* v. *Connecticut Bar Assn.*, 184 Conn. 21, 441 A.2d 49 (1981), or any implications therefrom should not be considered to apply to judges contributing to a client security fund under the auspices of the court.

AMENDMENT NOTE—2011: Comment (7) to Rule 2.11 was adopted by the judges of the Appellate Court on July 15, 2010, and the justices of the Supreme Court on July 1, 2010. It was not, however, adopted by the judges of the Superior Court.

(7) A justice of the Supreme Court or a judge of the Appellate Court is not disqualified from sitting on a proceeding merely because he or

she previously practiced law with the law firm or attorney who filed an amicus brief in the matter, or the justice's or judge's spouse, domestic partner, parent, or child, or any other member of the justice's or judge's family residing in his or her household is practicing or has practiced law with such law firm or attorney.

AMENDMENT NOTE—2023: The change to this rule deletes the requirement that the judge, on the record, disclose the fact that a lawsuit or complaint has been filed against him or her, because the burden of disclosure under Section 1-22 and under (New) Section 66-9,[1] being considered by the justices of the Supreme Court and judges of the Appellate Court, is on the party or attorney filing the lawsuit or complaint.

AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

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] **(NEW) Sec. 66-9. Disqualification of Appellate Jurists**

(a) A justice of the Supreme Court or a judge of the Appellate Court shall, upon motion of either party or upon its own motion, be disqualified from acting in a matter if such justice or judge is disqualified from acting therein pursuant to Rule 2.11 of the Code of Judicial Conduct.

(b) A justice of the Supreme Court or a judge of the Appellate Court is not automatically disqualified from acting in a matter merely because: (1) the justice or judge previously practiced law with the law firm or attorney who filed an amicus brief in the matter; or (2) the justice's or judge's spouse, domestic partner, parent, or child, or any other member of the justice's or judge's family residing in his or her household is practicing or has practiced law with such law firm or attorney who filed an amicus brief in the matter; or (3) an attorney or party to the matter has filed a lawsuit against the justice or judge or filed a complaint against the justice or judge with the Judicial Review Council or an administrative agency.

(c) When an attorney or party who has filed a lawsuit or a complaint against a justice or judge is involved in a matter before the court on which the justice or judge sits, such attorney or party shall so advise the court and other attorneys and parties to the matter, and, thereafter, the justice or judge who is the subject of the disqualification issue shall either decide whether to disqualify himself or herself from acting in the matter.

(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 the health diagnosis, treatment, or drug or alcohol dependence of an applicant 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; and (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 changes to Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal, and to update and to clarify those sections.

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 Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal, and to update and to clarify those sections.

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 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, and shall certify 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. The following **[**affidavits**]** recommendations shall be filed by the person **[**completing the affidavit**]** making the recommendation:

(A) recommendations **[**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; and

(B) recommendations [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 Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal, and to update and to clarify those sections.

Sec. 2-13A. Military Spouse Temporary Licensing

(a) **Qualifications.** An applicant who meets all of the following requirements listed in subdivisions (1) through (11) of this subsection may be temporarily licensed and admitted to the practice of law in Connecticut, upon approval of the bar examining committee. The applicant:

(1) is the spouse of an active duty service member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard and that service member is or will be stationed in Connecticut due to military orders;

(2) is licensed to practice law before the highest court in at least one state or territory of the United States or in the District of Columbia;

(3) is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or become inactive or had a license administratively suspended or revoked while in good standing from every jurisdiction without any pending disciplinary actions;

(4) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(5) meets the educational qualifications required to take the examination in Connecticut;

(6) possesses the good moral character and fitness to practice law required of all applicants for admission in Connecticut;

(7) has passed an examination in professional responsibility or has completed a course in professional responsibility in accordance with the regulation of the bar examining committee;

(8) is or will be physically residing in Connecticut due to the service member's military orders;

(9) has not failed the Connecticut bar examination within the past five years;

(10) has not had an application for admission to the Connecticut bar or the bar of any state, the District of Columbia or United States territory denied on character and fitness grounds; and

(11) has not failed to achieve the Connecticut scaled score on the uniform bar examination administered within any jurisdiction within the past five years.

(b) **Application Requirements.** Any applicant seeking a temporary license to practice law in Connecticut under this section shall file an **[**written**]** application and payment of such fee as the bar examining committee shall from time to time determine. 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, and shall certify whether the 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. In addition, the applicant shall file with the committee the following:

(1) a copy of the applicant's military spouse dependent identification and documentation evidencing a spousal relationship with the service member;

(2) a copy of the service member's military orders to a military installation in Connecticut or a letter from the service member's command verifying that the requirement in subsection (a) (8) of this section is met;

(3) certificate(s) of good standing from the highest court of each state, the District of Columbia or United States territory to which the applicant has been admitted, or proof that the applicant has resigned, or become inactive or had a license administratively suspended or revoked while in good standing; and

[(4) 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; and

(5) affidavits**]** (4) recommendations from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law.

(c) **Duration and Renewal.**

(1) A temporary license to practice law issued under this rule will be valid for three years provided that the temporarily licensed attorney remains a spouse of the service member and resides in Connecticut

due to military orders or continues to reside in Connecticut due to the service member's immediately subsequent assignment specifying that dependents are not authorized to accompany the service member. The temporary license may be renewed for one additional two year period.

(2) A renewal application must be submitted with the appropriate fee as established by the bar examining committee and all other documentation required by the bar examining committee, including a copy of the service member's military orders. Such renewal application shall be filed not less than thirty days before the expiration of the original three year period.

(3) A temporarily licensed attorney who wishes to become a permanent member of the bar of Connecticut may apply for admission by examination or for admission without examination for the standard application fee minus the application fee paid to the committee for the application for temporary license, not including any fees for renewal.

(d) **Termination.**

(1) Termination of Temporary License. A temporary license shall terminate, and a temporarily licensed attorney shall cease the practice of law in Connecticut pursuant to that admission, unless otherwise authorized by these rules, thirty days after any of the following events:

(A) the service member's separation or retirement from military service;

(B) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the dependents are not authorized to accompany the service member, in which case the attorney may continue to practice

law in Connecticut as provided in this rule until the service member departs Connecticut for a permanent change of station where the presence of dependents is authorized;

(C) the attorney's permanent relocation outside of the state of Connecticut for reasons other than the service member's relocation;

(D) upon the termination of the attorney's spousal relationship to the service member;

(E) the attorney's failure to meet the annual licensing requirements for an active member of the bar of Connecticut;

(F) the attorney's request;

(G) the attorney's admission to practice law in Connecticut by examination or without examination;

(H) the attorney's denial of admission to the practice of law in Connecticut; or

(I) the death of the service member.

Notice of one of the events set forth in subsection (d) (1) must be filed with the bar examining committee by the temporarily licensed attorney within thirty days of such event. Notice of the event set forth in subsection (d) (1) (I) must be filed with the committee by the temporarily licensed attorney within thirty days of the event, and the attorney shall cease the practice of law within one year of the event. Failure to provide such notice by the temporarily licensed attorney shall be a basis for discipline pursuant to the Rules of Professional Conduct for attorneys.

(2) Notice of Termination of Temporary License. Upon receipt of the notice required by subsection (d) (1), the bar examining committee

shall forward a request to the statewide bar counsel that the license under this chapter be revoked. Notice of the revocation shall be mailed by the statewide bar counsel to the temporarily licensed attorney.

(3) Notices Required. At least sixty days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:

(A) file in each matter pending before any court, tribunal, agency or commission a notice that the attorney will no longer be involved in the case; and

(B) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

(e) **Responsibilities and Obligations.**

An attorney temporarily licensed under this section shall be subject to all responsibilities and obligations of active members of the Connecticut bar, and shall be subject to the jurisdiction of the courts and agencies of Connecticut, and shall be subject to the laws and rules of Connecticut governing the conduct and discipline of attorneys to the same extent as an active member of the Connecticut bar. The attorney shall maintain participation in a mentoring program provided by a state or local bar association in the state of Connecticut.

COMMENTARY: The changes to Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal, and to update and to clarify those sections.

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 an application and payment of such fee as the committee shall from time to time determine. **[**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 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).**]**

(A) The application shall:

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

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

(B) The applicant shall file with the bar examining committee:

(i) 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;

(ii) 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); and

(iii) a recommendation 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 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 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 Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal and to update and to clarify those sections.

Sec. 2-18. —Filings To Become Foreign Legal Consultant

(a) An applicant for a license to practice as a foreign legal consultant shall file with the **[**administrative**]** director of the bar examining committee:

(1) a<u>n</u> **[**typewritten**]** application **[**in the form prescribed by the committee**]** <u>and payment of such fee as the bar examining committee shall from time to time determine</u>;

[(2) a certified check, cashier's check, or money order in the amount of $500 made payable to the bar examining committee;**]**

[(3)**]** <u>(2)</u> a certificate from the authority in the foreign country having final jurisdiction over professional discipline, certifying to the applicant's admission to practice (or the equivalent of such admission) and the date thereof and to the applicant's good standing as an attorney or counselor at law (or the equivalent of either), together with a duly authenticated English translation of such certificate if it is not in English; and

[(4)**]** <u>(3)</u> two **[**letters of**]** recommendation<u>s</u>, one from a member in good standing of the Connecticut bar and another from either a member in good standing of the bar of the country in which the applicant is licensed as an attorney, or from a judge of one of the courts of original jurisdiction of said country, together with a duly authenticated English translation of each letter if it is not in English.

(b) Upon a showing that strict compliance with the provisions of Section 2-17 (1) and subdivisions (2) or (3) **[**or (4)**]** of subsection (a) of this section is impossible or very difficult for reasons beyond the control of the applicant, or upon a showing of exceptional professional qualifications to practice as a foreign legal consultant, the court may, in its discretion, waive or vary the application of such provisions and permit the applicant to make such other showing as may be satisfactory to the court.

(c) The bar examining committee shall investigate the qualifications, moral character, and fitness of any applicant for a license to practice as a foreign legal consultant and may in any case require the applicant to submit any additional proof or information as the committee may deem appropriate. The committee may also require the applicant to submit a report from the National Conference of Bar Examiners, and to pay the prescribed fee therefor, with respect to the applicant's character and fitness.

COMMENTARY: The changes to Sections 2-8, 2-10, 2-13, 2-13A, 2-15A, and 2-18 are made to implement the transition from a paper-based bar application process to an online application process, with an applicant portal and to update and to clarify those sections.

Sec. 2-79. —Enforcement of Payment of Fee

(a) The client security fund committee shall send a notice to each attorney who has not paid the client security fund fee pursuant to Section 2-70 of these rules that the attorney's license to practice law in this state may be administratively suspended unless within sixty days from the date of such notice the client security fund committee

receives from such attorney proof that he or she has either paid the fee or is exempt from such payment. If the client security fund committee does not receive such proof within the time required, it shall cause a second notice to be sent to the attorney advising the attorney that he or she will be referred to the Superior Court for an administrative suspension of the attorney's license to practice law in this state unless within thirty days from the date of the notice proof of the payment of the fee or exemption is received. The client security fund committee shall submit to the clerk of the Superior Court for the Hartford Judicial District a list of attorneys who did not provide proof of payment or exemption, within thirty days after the date of the second notice. Upon order of the court, the attorneys so listed and referred to the clerk shall be deemed administratively suspended from the practice of law in this state until such time as payment of the fee and the reinstatement fee assessed pursuant to Section 2-70 is made, which suspension shall be effective upon publication of the list in the Connecticut Law Journal. An administrative suspension of an attorney for failure to pay the client security fund fee shall not be considered discipline, but an attorney who is placed on administrative suspension for such failure shall be ineligible to practice law as an attorney admitted to practice in this state, and shall not be considered in good standing pursuant to Section 2-65 of these rules until such time as the fee and reinstatement fee are paid. An attorney aggrieved by an order placing the attorney on administrative suspension for failing to pay the client security fund fee may make an application to the Superior Court to have the order vacated, by filing the application with the Superior Court for

the Hartford Judicial District within thirty days of the date that the order is published, and mailing a copy of the same by certified mail, return receipt requested, to the office of the client security fund committee. The application shall set forth the reasons why the application should be granted. The court shall schedule a hearing on the application, which shall be limited to whether good cause exists to vacate the suspension order.

(b) If a judge, judge trial referee, state referee, family support magistrate or administrative law judge has not paid the client security fund fee, the Office of the Chief Court Administrator shall send a notice to such person that he or she will be referred to the Judicial Review Council unless within sixty days from the date of such notice the Office of the Chief Court Administrator receives from such person proof that he or she has either paid the fee or is exempt from such payment. If the Office of the Chief Court Administrator does not receive such proof within the time required, it shall refer such person to the Judicial Review Council.

(c) Family support referees shall be subject to the provisions of subsection (a) herein until such time as they come within the jurisdiction of the Judicial Review Council, when they will be subject to the provisions of subsection (b).

(d) The notices required by this section shall be mailed **[**sent by certified mail, return receipt requested or with electronic delivery confirmation**]** to the last address registered by the attorney and sent by email to the last email address registered by the attorney pursuant to Section 2-26 and Section 2-27 (d), and mailed to the home address of

the judge, judge trial referee, state referee, family support magistrate, family support referee or administrative law judge.

COMMENTARY: The changes to this section remove the requirement that the notices required shall be sent by certified mail, return receipt requested or with electronic delivery confirmation and in place thereof, allow those notices to be mailed and sent by email to the registered attorney, and mailed to the home address of the judge or other judicial authority or administrative law judge.

Sec. 7-11. —Judgments on the Merits—Stripping and Retention

(a) With the exception of actions which affect the title to land and actions which have been disposed of pursuant to Section 7-10, the files in civil, family and juvenile actions in which judgment has been rendered may be stripped and destroyed pursuant to the schedule set forth in subsection (d), except that requests relating to discovery, responses and objections thereto may be stripped after the expiration of the appeal period.

(b) When a file is to be stripped, all papers in the file shall be destroyed except:

(1) The complaint, including any amendment thereto, substituted complaint or amended complaint;

(2) All orders of notice, appearances and officers' returns;

(3) All military or other affidavits;

(4) Any cross complaint, third-party complaint, or amendment thereto;

(5) All responsive pleadings;

(6) Any memorandum of decision;

(7) The judgment file or notation of the entry of judgment, and all modifications of judgment;

(8) All executions issued and returned.

(c) Upon the expiration of the stripping date, or at any time if facilities are not available for local retention, the file in any action set forth in subsection (d) may be transferred to the records center or other proper designated storage area, where it shall be retained for the balance of the retention period. Files in actions concerning dissolution of marriage or civil union, legal separation, or annulment may, upon agreement with officials of the state library, be transferred to the state library at the expiration of their retention period.

(d) The following is a schedule which sets forth when a file may be stripped and the length of time the file shall be retained. The time periods indicated herein shall run from the date judgment is rendered, except receivership actions or actions for injunctive relief, which shall run from the date of the termination of the receivership or injunction.

Type of Case	*Stripping Retention*	*Date*
(1) Administrative appeals		3 years
(2) Contracts (where money damages are not awarded)	1 year	20 years
(3) Eminent domain (except as provided in Section 7-12)		10 years
(4) Family		
-Dissolution of marriage or civil union, legal separation, annulment and change of name	5 years	75 years
-Delinquency		Until subject is 25 years of age
-Family with service needs		Until subject is 25 years of age

-Termination of parental rights		Permanent
-Neglect and uncared for		75 years
-Emancipation of minor		5 years
-Orders in relief from physical abuse (General Statutes § 46b-15)		5 years
-Other		75 years
(5) Family support magistrate matters		75 years
-Uniform Reciprocal Enforcement of Support		75 years
-Uniform Interstate Family Support Act		75 years
(6) Landlord/Tenant		
-Summary process		3 years
-Housing code enforcement (General Statutes § 47a-14h)		5 years
-Contracts/Leases (where money damages are not awarded)	1 year	20 years
-Money damages (except where a satisfaction of judgment has been filed)	1 year	26 years
(7) Miscellaneous		
-Bar discipline		50 years
-Civil Protection Order (General Statutes § 46b-16a)		5 years
-Money damages (except where a satisfaction of judgment has been filed)	1 year	26 years
-Mandamus, habeas corpus, arbitration, petition for new trial, action for an accounting, interpleader		10 years
-Injunctive relief (where no other relief is requested)		5 years
(8) Property (except as provided in Section 7-12)	5 years	26 years
(9) Receivership		10 years
(10) Small claims		15 years

(11) Torts (except as noted below)	1 year	26 years
-Money damages if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party at fault was convicted under General Statutes § 53a-70 or § 53a-70a (except where a satisfaction of judgment has been filed)		Permanent
(12) Wills and estates		10 years
(13) Asset forfeiture (General Statutes § 54-36h)		10 years
(14) Alcohol and drug commitment (General Statutes § 17a-685)		10 years
(15) All other civil actions (except as provided in Section 7-12)		75 years

COMMENTARY: The change to this section provides that the retention period for civil protection orders under General Statutes § 46b-16a shall be five years.

Sec. 7-19. Issuing Subpoenas for Witnesses on Behalf of Self-Represented Litigants

(a) Self-represented litigants seeking to compel the attendance of necessary witnesses in connection with the hearing of any matter shall file an application to have the clerk of the court issue subpoenas for that purpose. The application shall include a summary of the expected testimony of each proposed witness so that the court may determine the relevance of the testimony. The clerk, after verifying the scheduling

of the matter, shall present the application to the judge before whom the matter is scheduled for hearing, or the administrative judge or any judge designated by the administrative judge if the matter has not been scheduled before a specific judge, which judge shall **[**conduct an ex parte**]** review **[**of**]** the application. **[**and may direct or deny the issuance of subpoenas as such judge deems warranted under the circumstances, keeping in mind the nature of the scheduled hearing and future opportunities for examination of witnesses, as may be appropriate. If an application is denied in whole or in part, the applicant may request a hearing which shall be scheduled by the court.**]**

(b) The reviewing judge may act on the application ex parte and may direct or deny the issuance of subpoenas as such judge deems warranted under the circumstances, keeping in mind the nature of the scheduled hearing and future opportunities for examination of witnesses, as may be appropriate. If an application is granted ex parte, in whole or in part, any party may file a motion for protective order or motion to quash, as appropriate. If an application is denied ex parte, in whole or in part, the applicant may request a hearing which shall be scheduled by the court. The reviewing judge may order that an application acted upon ex parte be placed in the official court file, whether or not a hearing is requested.

(c) If the reviewing judge does not act on the application ex parte, such judge shall direct that the application be placed in the official court file to allow any party to file an objection, which objection will be filed by a date to be set by the reviewing judge. Having provided an opportunity for any party to object, the reviewing judge may direct

or deny the issuance of subpoenas as such judge deems warranted under the circumstances, keeping in mind the nature of the scheduled hearing and future opportunities for examination of witnesses, as may be appropriate.

(d) Any party or nonparty to whom a subpoena is directed pursuant to this rule may file a motion to quash or a motion for protective order as appropriate.

COMMENTARY: The changes to this section make clear that the judge may conduct an ex parte review of the application for issuance of subpoenas and may direct or deny the issuance of subpoenas as such judge deems warranted under the circumstances. If an application is granted ex parte, any party may file a motion for protective order or a motion to quash. If an application is denied ex parte, the applicant may request a hearing which shall be scheduled by the court. The reviewing judge may order that an application acted on ex parte be placed in the official court file whether or not a hearing is requested.

If the application is not acted on by the reviewing judge ex parte, the judge shall direct that the application be placed in the official court file to allow any party to file an objection by a date set by the judge. Thereafter, the reviewing judge may direct or deny the issuance of subpoenas as such judge deems warranted under the circumstances.

Any party or nonparty to whom a subpoena is directed may file a motion to quash or a motion for protective order as appropriate.

AMENDMENTS TO THE CIVIL RULES

Sec. 13-30. —Deposition Procedure

(a) Examination and cross-examination of deponents may proceed as permitted at trial. The officer before whom the deposition is to be taken shall put the deponent on oath and shall personally, or by someone acting under the officer's direction, record the testimony of the deponent. The testimony shall be taken stenographically or recorded by any other means authorized in accordance with Section 13-27 (f). If the testimony is taken stenographically, it shall be transcribed at the request of one of the parties.

(b) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion under subsection (c) of this section. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the

party shall transmit the questions to the officer, who shall propound them to the witness and record the answers verbatim.

(c) At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending may order the officer conducting the examination forthwith to cease taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Section 13-5. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending.

(d) If requested by the deponent or any party, when the testimony is fully transcribed the deposition shall be submitted to the deponent for examination and shall be read to or by the deponent. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent certifying that the deposition is a true record of the deponent's testimony, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent within thirty days after its submission to the deponent, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless, on a motion to suppress

under Section 13-31 (c) (4), the judicial authority holds that the reasons given for the refusal or failure to sign require rejection of the deposition in whole or in part.

(e) The person recording the testimony shall certify on the deposition that the witness was duly sworn by the person, that the deposition is a true record of the testimony given by the deponent, whether each adverse party or his agent was present, and whether each adverse party or his agent was notified, and such person shall also certify the reason for taking the deposition. The person shall then **[**securely seal the deposition in an envelope endorsed with the title of the action, the address of the court where it is to be used and marked ''Deposition of (*here insert the name of the deponent*),''**]** cause a watermark or other indicia of origin to be added to the deposition and shall then promptly deliver it to the party at whose request it was taken and give to all other parties a notice that the deposition has been transcribed and so delivered. The party at whose request the deposition was taken shall file the **[**sealed**]** deposition with the court at the time of trial.

(f) Documents and things produced for inspection during the examination of the deponent, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (1) the person producing the materials may substitute copies to be marked for identification, if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, and (2) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them

to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition to the court, pending final disposition of the case.

(g) The parties may stipulate in writing and file with the court, or the court may upon motion order, that a deposition be taken by telephone, videoconference, or other remote electronic means. For the purposes of Sections 13-26 through 13-29 and this section, such a deposition is deemed taken at the place where the deponent is to answer questions. Except as otherwise provided in this subsection, the rules governing the practice, procedures and use of depositions shall apply to remote electronic means depositions. The following additional rules, unless otherwise agreed in writing by the parties or ordered by the court, shall apply to depositions taken by remote electronic means:

(1) The deponent shall be in the presence of the officer administering the oath and recording the deposition.

(2) Any exhibits or other demonstrative evidence to be presented to the deponent by any party at the deposition shall be provided to the officer administering the oath and all other parties prior to the deposition.

(3) Nothing in subsection (g) shall prohibit any party from being with the deponent during the deposition, at that party's expense; provided, however, that a party attending a deposition shall give written notice of that party's intention to appear at the deposition to all other parties within a reasonable time prior to the deposition.

(4) The party at whose instance the remote electronic means deposition is taken shall pay all costs of the remote electronic means deposi-

tion for the transmission from the location of the deponent and one site for participation of counsel located in the judicial district where the case is pending together with the cost of the stenographic, video or other electronic record. The cost of participation in a remote electronic means deposition from any other location shall be paid by the party or parties participating from such other location.

(h) Notwithstanding this section, a deposition may be attended by any party by remote electronic means even if the party noticing the deposition does not elect to use remote electronic means if (1) a party desiring to attend by remote electronic means provides written notice of such intention to all parties in either the notice of deposition or a notice served in the same manner as a notice of deposition and (2) if the party electing to participate by remote electronic means is not the party noticing the deposition, such party pays all costs associated with implementing such remote electronic participation by that party.

(i) Nothing contained in any provision providing for the use of remote electronic means depositions shall prohibit any party from securing a representative to be present at the location where the deponent is located to report on the record any events which occur in that location which might not otherwise be transmitted and/or recorded by the electronic means utilized.

(j) The party on whose behalf a deposition is taken shall bear the cost of the original transcript, and any permanent electronic record including audio or videotape. Any party or the deponent may obtain a copy of the deposition transcript and permanent electronic record including audio or videotape at its own expense.

COMMENTARY: The change to this section removes the requirement in subsection (e) that the person recording the testimony securely seal the deposition in an envelope and, in lieu thereof, requires that the person cause a watermark or other indicia of origin to be added to the deposition.

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

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

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

AMENDMENTS TO THE JUVENILE RULES

(NEW) 35a-24. Motions for Posttermination Visitation

(a) Whenever any party seeks an order for posttermination visitation in the context of the termination of parental rights proceeding, the movant shall file a motion in accordance with Section 34a-1.

(b) The judicial authority shall hold an evidentiary hearing to determine whether such an order is necessary or appropriate to secure the welfare, protection, proper care and suitable support of a child.

(c) Upon motion of any party or upon its own motion, the judicial authority may consolidate the hearing on the motion for posttermination visitation with the termination of parental rights trial.

(d) The moving party shall have the burden of proving that posttermination visits are necessary or appropriate to secure the welfare, protection, proper care and suitable support of a child.

(e) In deciding whether to order posttermination visitation, the judicial authority may consider: the wishes of the child; the expressed interests of the birth parent; the frequency and quality of visitation between the child and birth parent prior to the termination of the parent's parental rights; the strength of the emotional bond between the child and the birth parent; any interference with present custodial arrangements; any impact on the adoption prospects for the child; and any other factors the judicial authority finds relevant and material.

COMMENTARY: The new rule adopts the procedure applicable to motions for posttermination visitation filed in the context of the termination of parental rights proceeding filed pursuant to General Statutes § 46b-121 (b) (1). These requirements have been established by our Supreme Court in *In re Ava W.,* 336 Conn. 545, 248 A.3d 675 (2020), and *In re Annessa J.,* 343 Conn. 642, 284 A.3d 562 (2022). In *In re Annessa J.,* the Court clarified that the applicable legal standard pursuant to § 46b-121 (b) (1) is not the traditional best interest of the child but, rather, that the granting of posttermination visitation must

be necessary or appropriate to secure the welfare, protection, proper care and suitable support of the child. The Court further concluded that the ''necessary or appropriate standard is purposefully more stringent than the best interest of the child standard, as the trial court must find that posttermination visitation is necessary or appropriate—meaning proper—to secure the child's welfare.'' (Internal quotation marks omitted.) Id., 674. With regard to the substitution of the term ''appropriate'' to the term ''proper,'' the Court explained that it was warranted because ''[t]he term necessary, when used in this context, has one fixed meaning: Impossible to be otherwise . . . indispensable; requisite; [or] essential . . . [and] given the fact that the preceding word in the standard is necessary, we choose to adopt a definition of appropriate that aligns with the more exacting term, necessary . . . [i.e.,] proper.'' (Citations omitted; internal quotation marks omitted.) Id., 673–74.

AMENDMENTS TO THE CRIMINAL RULES

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

(a) Upon notification by a law enforcement officer that an arrested person has not posted bail, a bail commissioner or an intake, assessment, and referral specialist shall promptly conduct an interview and investigation and, based upon release criteria established by the court support services division, shall, except as provided in subsection (c) of this section, promptly order the release of the arrested person upon

the first of the following conditions of release found sufficient to ensure his or her appearance in court:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 38-4. —Release by Judicial Authority

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

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

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

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

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to **[**10**]** 7 percent of the amount of the surety bond set, pursuant to Section 38-8;

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

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

(b) The judicial authority may, in determining what conditions of release will reasonably ensure the appearance of the defendant in

court pursuant to subsection (a) of this section, consider the following factors:

(1) The nature and circumstances of the offense;

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

(3) The defendant's past record of appearance in court;

(4) The defendant's family ties;

(5) The defendant's employment record;

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

(7) The defendant's community ties**[.]**; and

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

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

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

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

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

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to **[**10**]** 7 percent of the amount of the surety bond set, pursuant to Section 38-8;

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

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

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

(1) The nature and circumstances of the offense;

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

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

(4) The defendant's family ties;

(5) The defendant's employment record;

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

(7) The defendant's community ties;

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

(9) The weight of evidence against the defendant;

(10) The defendant's history of violence;

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

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

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

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

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

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

(2) The defendant requests such financial conditions; or

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

risk that:

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

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

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

In making such finding, the judicial authority may consider past criminal history, including any prior record of failing to appear as required in court that resulted in any conviction for failure to appear in the first degree, in violation of General Statutes § 53a-172, or any conviction during the previous ten years for Failure to Appear in the Second Degree, in violation of General Statutes § 53a-173, and any other pending criminal cases.

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

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

gered, which conditions may include an order that he or she do one or more of the following:

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

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

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

(4) Provide sureties of the peace pursuant to General Statutes § 54-56f under supervision of a designated bail commissioner or intake, assessment and referral specialist;

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

(6) Maintain employment or, if unemployed, actively seek employment;

(7) Maintain or commence an educational program;

(8) Be subject to electronic monitoring; or

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

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

(h) The judicial authority may require that the defendant subject to electronic monitoring pursuant to subsection (g) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the judicial authority finds

that the defendant subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, it shall waive such costs.

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

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

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

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

When **[**10**]** 7 percent cash bail is authorized either automatically or pursuant to court order, upon the depositing in cash, by the defendant or any other person in his or her behalf other than a paid surety, of **[**10**]** 7 percent of the surety bond set, the defendant shall thereupon be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the

defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the **[**10**]** 7 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.

COMMENTARY: The changes to this section reduce from 10 percent to 7 percent the amount of cash bail required under the circumstances set out in this rule.

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

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

(b) On and after October 1, 2021, at any time during the period of a sentence in which a defendant has been sentenced prior to, on, or after October 1, 2021, to an executed period of incarceration of more than seven years as a result of a plea agreement, including an agreement in which there is an agreed upon range of sentence, upon agreement of the defendant and the state's attorney to seek review of the sentence, the judicial authority may, after hearing and for good cause shown, reduce the sentence, order the defendant discharged, or order the defendant discharged on probation or conditional dis-

charge for a period not to exceed that to which the defendant could have been originally sentenced.

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

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

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

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 53a-39, as amended by Public Acts 2021, No. 21-102, § 25, and Public Acts 2022, No. 22-

36 § 1, particularly to include the expanded eligibility for defendants to apply for sentence reduction, the limitations on such eligibility when a defendant's sentence is for more than seven years to serve as the result of a plea agreement, the five-year waiting period to reapply after a denial, the prohibition on sentence reduction applying to mandatory minimum sentences, and the victim's right to be heard regarding any application.