# Practice Book Amendments

## Superior Court Rules

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**June 18, 2024**

# NOTICE

## Superior Court

On June 14, 2024, the judges of the Superior Court adopted the amendments to the Practice Book contained in this Notice. Those amendments become effective on January 1, 2025, except that Section 21-25 becomes effective upon publication in this Connecticut Law Journal on June 18, 2024.

Attest:

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

## INTRODUCTION

Contained herein are amendments to 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 Commentaries to the Superior Court Rules are for informational purposes only.

Rules Committee of the
Superior Court

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# AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

## Sec. 1-4. Family Division

The family division of the Superior Court shall consist of the following parts:

(1) J—Juvenile matters including neglect, dependency, delinquency, families with service needs and termination of parental rights.

(2) S—Support and parentage **[**paternity**]** actions.

(3) D—All other family relations matters, including dissolution of marriage or civil union cases.

COMMENTARY: The Section has been amended to comply with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

## Sec. 2-1. County Court Designations concerning Bar Admission Process

(a) For the purposes of this chapter, each Superior Court location designated below shall be the Superior Court for the county in which it is situated: the Superior Court for the judicial district of **[**Fairfield at**]** Bridgeport shall be the Superior Court for Fairfield county; the Superior Court for the judicial district of New Haven at New Haven shall be the Superior Court for New Haven county; the Superior Court for the judicial district of Litchfield at **[**Litchfield**]** Torrington shall be the Superior Court for Litchfield county; the Superior Court for the judicial district of Hartford at Hartford shall be the Superior Court for Hartford county; the Superior Court for the judicial district of Middlesex at Middletown shall be the Superior Court for Middlesex county; the Superior Court for the judicial district of Tolland at Rockville shall be the Superior Court

for Tolland county; the Superior Court for the judicial district of New London at Norwich shall be the Superior Court for New London county; and the Superior Court for the judicial district of Windham at Putnam shall be the Superior Court for Windham county.

(b) The chief clerk for each judicial district court location mentioned above shall be the clerk for the corresponding Superior Court county location.

COMMENTARY: The revisions to this section change the judicial district of Fairfield to the judicial district of Bridgeport, consistent with Public Acts 2023, No. 23-46, § 26, and the judicial district of Litchfield at Litchfield to the judicial district of Litchfield at Torrington, consistent with Public Acts 2019, No. 19-64, § 20.

### 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 or Space Force 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 sus-

pended 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 application and payment of such fee as the bar examining committee shall from time to time determine. Such application shall be filed with the 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 repri-

manded, 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) 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 revisions to this section add a reference to the United States Space Force, as a recognized branch of the United States armed forces, consistent with Public Acts 2023, No. 23-71.

### Sec. 2-27A. Minimum Continuing Legal Education

(a) On an annual basis, each attorney admitted in Connecticut shall certify, on the registration form required by Section 2-27 (d), that the attorney has completed in the last calendar year no less than twelve credit hours of appropriate continuing legal education, at least two hours of which shall be in ethics/professionalism. The ethics and professionalism components may be integrated with other courses. This rule shall apply to all attorneys except the following:

(1) Judges and senior judges of the Supreme, Appellate or Superior Courts, judge trial referees, family support magistrates, family support

magistrate referees, administrative law judges, elected constitutional officers, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges;

(2) Attorneys who are disbarred, resigned pursuant to Section 2-52, on inactive status pursuant to Section 2-56 et seq., or retired pursuant to Section 2-55 or 2-55A;

(3) Attorneys who are serving on active duty in the armed forces of the United States for more than six months in such year;

(4) Attorneys for the calendar year in which they are admitted;

(5) Attorneys who earn less than $1000 in compensation for the provision of legal services in such year;

(6) Attorneys who, for good cause shown, have been granted temporary or permanent exempt status by the Statewide Grievance Committee.

(b) Attorneys may satisfy the required hours of continuing legal education:

(1) By attending legal education courses provided by any local, state or special interest bar association in this state or regional or national bar associations recognized in this state or another state or territory of the United States or the District of Columbia (hereinafter referred to as "bar association"); any private or government legal employer; any court of this or any other state or territory of the United States or the District of Columbia; any organization whose program or course has been reviewed and approved by any bar association or organization that has been established in any state or territory of the United States or the District of Columbia to certify and approve continuing legal education courses; and any other nonprofit or for-profit legal education providers, including law schools and other appropriate con-

tinuing legal education providers, and including courses remotely presented by video conference, webcasts, webinars, or the like by said providers.

(2) By self-study of appropriate programs or courses directly related to substantive or procedural law or related topics, including professional responsibility, legal ethics, or law office management and prepared by those continuing legal education providers in subsection (b) (1). Said self-study may include viewing and listening to all manner of communication, including, but not limited to, video or audio recordings or taking online legal courses. The selection of self-study courses or programs shall be consistent with the objective of this rule, which is to maintain and enhance the skill level, knowledge, ethics and competence of the attorney and shall comply with the minimum quality standards set forth in subsection (c) (6).

(3) By publishing articles in legal publications that have as their primary goal the enhancement of competence in the legal profession, including, without limitation, substantive and procedural law, ethics, law practice management and professionalism.

(4) By teaching legal seminars and courses, including the participation on panel discussions as a speaker or moderator.

(5) By serving as a full-time faculty member at a law school accredited by the American Bar Association or approved by the state bar examining committee, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein.

(6) By serving as a part-time or adjunct faculty member at a law school accredited by the American Bar Association or approved by

the state bar examining committee, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein at the rate of one hour for each hour of classroom instruction and one hour for each two hours of preparation.

(7) By serving as a judge or coach for a moot court or mock trial course or competition that is part of the curriculum at or sanctioned by a law school accredited by the American Bar Association or approved by the state bar examining committee, or a high school or undergraduate mock trial or moot court competition that is sanctioned by a court, bar association or law school accredited by the American Bar Association or approved by the state bar examining committee, and requires the attorney to consider and to apply substantive legal principles, including, but not limited to, rules of evidence, and to provide a critique of the competitors' performance.

(c) Credit computation:

(1) Credit for any of the above activities shall be based on the actual instruction time, which may include lecture, panel discussion, and question and answer periods. Credit for the activity listed in subsection (b) (7) shall be based upon the actual judging or coaching time, up to four hours for each activity per year, two hours of which may be earned by judging or coaching high school or undergraduate mock trial or moot court competitions. Self-study credit shall be based on the reading time or running time of the selected materials or program.

(2) Credit for attorneys preparing for and presenting legal seminars, courses or programs shall be based on one hour of credit for each two hours of preparation. A maximum of six hours of credit may be

credited for preparation of a single program. Credit for presentation shall be on an hour for hour basis. Credit may not be earned more than once for the same course given during a calendar year.

(3) Credit for the writing and publication of articles shall be based on the actual time required for both researching and drafting. Each article may be counted only one time for credit.

(4) Continuing legal education courses ordered pursuant to Section 2-37 (a) (5) or any court order of discipline shall not count as credit toward an attorney's obligation under this section.

(5) Attorneys may carry forward no more than two credit hours in excess of the current annual continuing legal education requirement to be applied to the following year's continuing legal education requirement.

(6) To be eligible for continuing legal education credit, the course or activity must: (A) have significant intellectual or practical content designed to increase or maintain the attorney's professional competence and skills as an attorney; (B) constitute an organized program of learning dealing with matters directly related to legal subjects and the legal profession; and (C) be conducted by an individual or group qualified by practical or academic experience.

(d) Attorneys shall retain records to prove compliance with this rule for a period of seven years. Such records shall be made available to the Statewide Grievance Committee or its counsel, the minimum continuing legal education commission, or the disciplinary counsel upon request.

(e) Nothing in this section shall be construed to allow the Statewide Grievance Committee or its counsel, the minimum continuing legal

education commission, or the disciplinary counsel to conduct random audits solely to determine whether an attorney is in compliance with this section.

(f) An attorney who fails to comply with the minimum continuing legal education requirement shall be administratively suspended from the practice of law in this state pursuant to Section 2-27B.

(g) A Minimum Continuing Legal Education Commission (commission) shall be established by the Judicial Branch and shall be composed of four Superior Court judges and four attorneys admitted to practice in this state, all of whom shall be appointed by the chief justice of the Supreme Court or his or her designee and who shall serve without compensation. The charge of the commission will be to provide advice regarding the application and interpretation of this rule and to assist with its implementation including, but not limited to, the development of a list of frequently asked questions and other documents to assist the members of the bar to meet the requirements of this rule.

COMMENTARY—2017: It is the intention of this rule to provide attorneys with relevant and useful continuing legal education covering the broadest spectrum of substantive, procedural, ethical and professional subject matter at the lowest cost reasonably feasible and with the least amount of supervision, structure and reporting requirements, which will aid in the development, enhancement and maintenance of the legal knowledge and skills of practicing attorneys and will facilitate the delivery of competent legal services to the public.

The rule also permits an attorney to design his or her own course of study. The law is constantly evolving and attorneys, like all other

professionals, are expected to keep abreast of changes in the profession and the law if they are to provide competent representation.

Subsection (a) provides that Connecticut attorneys must complete twelve credit hours of continuing legal education per calendar year. Subsection (a) also lists those Connecticut attorneys, who are exempt from compliance, including, among others: judges, senior judges, attorneys serving in the military, new attorneys during the year in which they are admitted to practice, attorneys who earn less than $1000 in compensation for the provision of legal services in the subject year, and those who obtain an exempt status for good cause shown. The subsection also provides an exemption for attorneys who are disbarred, resigned, on inactive status due to disability, or are retired. The exemption for attorneys who earn less than $1000 in compensation in a particular year is not intended to apply to attorneys who claim that they were not paid as a result of billed fees to a client. All compensation received for the provision of legal services, whether the result of billed fees or otherwise, must be counted. There is no exemption for attorneys who are suspended or on administrative suspension. Subsection (d) requires an attorney to maintain adequate records of compliance. For continuing legal education courses, a certificate of attendance shall be sufficient proof of compliance. For self-study, a contemporaneous log identifying and describing the course listened to or watched and listing the date and time the course was taken, as well as a copy of the syllabus or outline of the course materials, if available, and, when appropriate, a certificate from the course provider, shall be sufficient proof of compliance. For any other form of continuing legal education, a file including a log of the time spent and drafts of the prepared material shall provide sufficient proof of compliance.

COMMENTARY—2025: The changes to this section allow an attorney to satisfy up to two hours of the required hours of continuing legal education by serving as a judge or coach for a high school or undergraduate mock trial or moot court competition.

**Sec. 3-10. Motion To Withdraw Appearance**

(a) No motion for withdrawal of appearance shall be granted unless good cause is shown and until the judicial authority is satisfied that reasonable notice has been given to other attorneys of record and that the party represented by the attorney was served with the motion and the notice required by this section or that the attorney has made reasonable efforts to serve such party. All motions to withdraw appearance shall be set down for argument and when the attorney files such motion, he or she shall obtain such argument date from the clerk.

(b) In civil and family cases, a motion to withdraw shall include the last known address of any party as to whom the attorney seeks to withdraw his or her appearance and shall have attached to it a notice to such party advising of the following: (1) the attorney is filing a motion which seeks the court's permission to no longer represent the party in the case; (2) the date and time the motion will be heard and whether such hearing will be conducted in person or remotely. If the hearing is conducted remotely, the attorney will provide the party with any information necessary to access the hearing remotely; (3) the party may appear in person [court] on that date and address the court concerning the motion if the hearing will be conducted in person and may appear remotely on that date and address the court concerning the motion if the hearing will be conducted remotely; (4) if the motion to withdraw is granted, the party should either obtain another attorney or file an appearance on his or her own behalf with the court; and (5)

if the party does neither, the party will not receive notice of court proceedings in the case and a nonsuit or default judgment may be rendered against such party. <u>If the hearing has not been scheduled at the time that the attorney files and serves the motion and notice, the attorney shall serve the party with a revised notice that provides the information required by subdivisions (2) and (3) of this subsection.</u>

(c) In criminal and juvenile matters, the motion to withdraw shall comply with subsections (b) (1), (2) and (3) of this section and the client shall also be advised by the attorney that if the motion to withdraw is granted the client should request court appointed counsel, obtain another attorney or file an appearance on his or her own behalf with the court and be further advised that if none is done, there may be no further notice of proceeding and the court may act.

(d) In addition to the above, each motion to withdraw appearance and each notice to the party or parties who are the subject of the motion shall state whether the case has been assigned for pretrial or trial and, if so, the date so assigned.

(e) The attorney's appearance for the party shall be deemed to have been withdrawn upon the granting of the motion without the necessity of filing a withdrawal of appearance.

COMMENTARY: The changes to subsection (b) of this section require the attorney seeking to withdraw his or her appearance to notify the party as to whom the attorney seeks to withdraw such appearance whether the hearing on the motion to withdraw will be conducted in person or remotely and, if it will be conducted remotely, provide the party with any information necessary to access such hearing.

The change to subsection (b) (3) of this section makes it clear that the party as to whom the attorney seeks to withdraw his or her appearance can address the court regardless of whether the hearing is remote or in person.

## AMENDMENTS TO THE CIVIL RULES

### Sec. 8-1. Process

(a) Process in civil actions shall be a writ of summons or attachment, describing the parties, the court to which it is returnable and the time and place of appearance, and shall be accompanied by the plaintiff's complaint. Such writ may run into any judicial district or geographical area and shall be signed by a Commissioner of the Superior Court or a judge or clerk of the court to which it is returnable. Except in those actions and proceedings indicated below, the writ of summons shall be on a form substantially in compliance with the following Judicial Branch forms prescribed by the chief court administrator: Form JD-FM-3 in family actions, Form JD-HM-32 in summary process actions, and Form JD-CV-1 in other civil actions, as such forms shall from time to time be amended. Any person proceeding without the assistance of counsel shall sign the complaint and present the complaint and proposed writ of summons to the clerk; the clerk shall review the proposed writ of summons and, unless it is defective as to form, shall sign it.

(b) For administrative appeals brought pursuant to General Statutes § 4-183 et seq., process and service of process shall be made in accordance with General Statutes § 4-183 (c) and Practice Book Section 14-7A (a).

(c) Form JD-FM-3, Form JD-HM-32, and Form JD-CV-1 shall not be used in the following actions and proceedings:

(1) Applications for change of name.

(2) Proceedings pertaining to arbitration.

(3) Probate appeals.

(4) Administrative appeals.

(5) Verified petitions <u>to adjudicate parentage</u> **[**for paternity**]**.

(6) Verified petitions for support orders.

(7) Any actions or proceedings in which an attachment, garnishment or replevy is sought.

(8) Applications for custody.

(9) Applications for visitation.

(d) A plaintiff may, before service on a defendant, alter printed forms JD-FM-3, JD-HM-32, and JD-CV-1 in order to make them conform to any relevant amendments to the rules of practice or statutes.

COMMENTARY: The revisions to this section comply with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

**Sec. 10-13. —Method of Service**

Service upon the attorney or upon a self-represented party, except service pursuant to Section 10-12 (c), may be by delivering a copy or by mailing it to the last known address of the attorney or party. Delivery of a copy within this section means handing it to the attorney or to the party; or leaving it at the attorney's office with a person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the usual place of abode. Delivery of a copy within this rule may also mean electronic delivery to the last known electronic address of the attorney or party, provided that electronic

delivery to a self-represented party was consented to in writing by that party **[**the person served**]**. An attorney or self-represented party who files a document electronically with the court must serve it electronically on (1) any **[**attorney or**]** self-represented party who consented in writing to electronic delivery under this section and (2) all attorneys who are not exempt from e-filing. Any attorney who is not exempt from e-filing is required to accept electronic delivery. Service by mail is complete upon mailing. Service by electronic delivery is complete upon sending the electronic notice unless the party making service learns that the attempted service did not reach the electronic address of the person to be served. Service pursuant to Section 10-12 (c) shall be made in the same manner as an original writ and complaint is served or as ordered by the judicial authority.

COMMENTARY: The changes to this section provide that (1) electronic delivery of a copy within this rule to a self-represented party must be consented to in writing by the self-represented party, and (2) an attorney or self-represented party who files a document electronically with the court must serve it electronically on any self-represented party who consented in writing to electronic filing and all attorneys who are not exempt from e-filing. The changes also require that any attorney who is not exempt from e-filing is required to accept electronic delivery.

**Sec. 13-29. —Place of Deposition**

(a) Any party who is a resident of this state may be compelled by notice as provided in Section 13-27 (a) to give a deposition at any place within the county of such party's residence, or within thirty miles of such residence, or at such other place as is fixed by order of the

judicial authority or as otherwise agreed. A plaintiff who is a resident of this state may also be compelled by like notice to give a deposition at any place within the county where the action is commenced or is pending.

(b) A plaintiff who is not a resident of this state may be compelled by notice under Section 13-27 (a) to attend at the plaintiff's expense an examination in the county of this state where the action is commenced or is pending or at any place within thirty miles of the plaintiff's residence or within the county of his or her residence or in such other place as is fixed by order of the judicial authority or as otherwise agreed.

(c) A defendant who is not a resident of this state may be compelled:

(1) By subpoena to give a deposition in any county in this state in which the defendant is personally served, or

(2) By notice under Section 13-27 (a) to give a deposition at any place within thirty miles of the defendant's residence or within the county of his or her residence or at such other place as is fixed by order of the judicial authority or as otherwise agreed.

(d) A nonparty deponent may be compelled by subpoena served within this state to give a deposition at a place within the county of his or her residence or within thirty miles of the nonparty deponent's residence, or if a nonresident of this state within any county in this state in which he or she is personally served, or at such other place as is fixed by order of the judicial authority or as otherwise agreed including the nonparty deponent.

(e) In this section, the terms "plaintiff" and "defendant" include officers, directors and managing agents of corporate plaintiffs and corporate defendants or other persons designated under Section 13-27 (h) as appropriate.

(f) If a deponent is an officer, director or managing agent of a corporate party, or other person designated under Section 13-27 (h), the place of examination shall be determined as if the residence of the deponent were the residence of the party.

COMMENTARY: The changes to this section provide that the place at which a deposition will be given or an examination conducted shall be as identified in the rule or as fixed by the judicial authority. The changes also provide that the parties and, where applicable, the non-party deponent may otherwise agree to the place of the deposition or examination.

**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 some-one 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 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 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**]** agree, 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 may be remote to the deponent. An officer may administer an oath by means of an interactive audiovisual device to any party, witness or other participant in a proceeding who appears pursuant to this section, provided such officer can see, hear and clearly identify the participant to whom the oath is to be administered via the audiovisual device.

**[**(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)**]** (2) Nothing in subsection (g) shall prohibit any party from being with the deponent during the deposition, at that party's expense; pro-

vided, 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)**]** (3) The party at whose instance the remote electronic means deposition is taken shall pay all costs of the remote electronic means deposition 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 deleting the requirement for a written stipulation reflects the current general practice in these matters.

The change in subdivision (1) of subsection (g) allows for remote oath taking and for the court reporter to be physically remote to the witness.

The deletion of subdivision (2) of subsection (g) is for consistency; exhibits are not required to be exchanged in advance of in-person depositions, and that same procedure should apply to remote depositions.

**Sec. 13-32. [Stipulations] <u>Agreements</u> regarding Discovery and Deposition Procedure**

Unless the court orders otherwise, the parties may **[**by written stipulation**]** <u>agree</u> (1) **[**provide**]** that depositions may be taken before any person, at any time or place, upon any notice, and in any manner, and when so taken may be used as other depositions, and (2) to modify the procedures provided by this chapter for other methods of discovery.

COMMENTARY: The change to this section removes the request for a written stipulation in favor of an agreement, the form of which is not mandated.

**Sec. 17-44. Summary Judgments; Scope of Remedy**

In any action, including administrative appeals which are enumerated in Section 14-7 (c), any party may move for a summary judgment

as to any **[**claim**]** cause of action or defense as a matter of right at any time if no scheduling order exists and the case has not been assigned for trial. If a scheduling order has been entered by the court, either party may move for summary judgment as to any **[**claim**]** cause of action or defense as a matter of right by the time specified in the scheduling order. If no scheduling order exists but the case has been assigned for trial, a party must move for permission of the judicial authority to file a motion for summary judgment. These rules shall be applicable to counterclaims and cross complaints, so that any party may move for summary judgment upon any counterclaim or cross complaint as if it were an independent action. The pendency of a motion for summary judgment shall delay trial only at the discretion of the trial judge.

COMMENTARY: The changes to this section replace the term "claim" with the term "cause of action." These changes make this Practice Book section, the first of a series of summary judgment rules, consistent with the rules on pleadings and motions in Chapter 10, which use the term "cause of action." These changes are not intended to alter summary judgment practice in any respect.

**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: The judges adopted this rule effective upon promulgation in the Connecticut Law Journal (June 20, 2023) until one year following such date, unless further extended. The Rules Committee recommends that this rule be extended indefinitely.

# AMENDMENTS TO THE FAMILY RULES

## Sec. 25-1. Definitions Applicable to Proceedings on Family Matters

(a) The following shall be "family matters" within the scope of these rules: Any actions brought pursuant to General Statutes § 46b-1, including, but not limited to, dissolution of marriage or civil union, legal separation, dissolution of marriage or civil union after legal separation, annulment of marriage or civil union, alimony, support, custody, and change of name incident to dissolution of marriage or civil union, habeas corpus and other proceedings to determine the custody and visitation of children except those which are properly filed in the Superior Court as juvenile matters, the establishing of [paternity] parentage, enforcement of foreign matrimonial or civil union judgments, actions related to prenuptial or pre-civil union and separation agreements and to matrimonial or civil union decrees of a foreign jurisdiction, actions brought pursuant to General Statutes § 46b-15, custody proceedings brought under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and proceedings for enforcement of support brought under the provisions of the Uniform Interstate Family Support Act.

(b) Whenever a rule applicable to family matters as defined in subsection (a) of this Section provides for the scheduling of a motion or other matter on the short calendar, the rule may be satisfied by the scheduling of the motion or other matter for a case date, motion docket, or other court event, so long as any time periods specified in the rule for the scheduling of the matter are observed.

COMMENTARY: The revisions to this section conform to the Connecticut Parentage Act, Public Acts 2021, No. 21-15, which has broadened matters of parentage in Connecticut beyond that of paternity. A subsection (b) was added to explain that rules applicable to family matters that require scheduling of a motion on a short calendar are satisfied by the scheduling of the motion for a case date, motion docket or other court event.

**Sec. 25-3. Action for Custody of Minor Child**

Every application in an action for custody of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. The application shall comply with Section 25-5. Such application shall be commenced by an order to show cause. Upon presentation of the application and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application should not be granted. The application, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing or other court event, which shall not be **[**held**]** more than thirty-five days from the filing of the application.

COMMENTARY: A disputed custody action is often not ready for a hearing on its first court appearance. Adding "or other court event" allows the court to assign the most appropriate court event and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the

court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

**Sec. 25-4. Action for Visitation of Minor Child**

Every application or verified petition in an action for visitation of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. An application brought under this section shall comply with Section 25-5. Any application or verified petition brought under this Section shall be commenced by an order to show cause. Upon presentation of the application or verified petition and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application or verified petition should not be granted. The application or verified petition, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing <u>or other court event</u>, which shall not be **[**held**]** more than thirty<u>-five</u> days from the filing of the application or verified petition.

COMMENTARY: A disputed visitation action is often not ready for a hearing on its first court appearance. Adding ''or other court event'' allows the court to assign the most appropriate court event and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

**Sec. 25-5. Automatic Orders upon Service of Complaint or Application**

The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage or civil union, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or the application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(a) In all cases involving a child or children, whether or not the parties are married or in a civil union:

(1) Neither party shall permanently remove the minor child or children from the state of Connecticut, without written consent of the other or order of a judicial authority.

(2) A party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(3) If the parents of minor children live apart during this proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(4) Neither party shall cause the children of the marriage or the civil union to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(5) The parties shall participate in the parenting education program within sixty days of the return day or within sixty days from the filing of the application.

(6) These orders do not change or replace any existing court orders, including criminal protective and civil restraining orders.

(b) In all cases involving a marriage or civil union, whether or not there are children:

(1) Neither party shall sell, transfer, exchange, assign, remove, or in any way dispose of, without the consent of the other party in writing, or an order of a judicial authority, any property, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(A) Nothing in subsection (b) (1) shall be construed to preclude a party from purchasing or selling securities, in the usual course of the parties' investment decisions, whether held in an individual or jointly held investment account, provided that the purchase or sale is: (i) intended to preserve the estate of the parties, (ii) transacted either on an open and public market or at an arm's length on a private market, and (iii) completed in such manner that the purchased securities or sales proceeds resulting from a sale remain, subject to the provisions and exceptions recited in subsection (b) (1), in the account in which the securities or cash were maintained immediately prior to the transaction. Nothing contained in this subsection shall be construed to apply to a party's purchase or sale on a private market of an interest in an entity

that conducts a business in which the party is or intends to become an active participant.

(B) Notwithstanding the requirement of subparagraph (A) of subsection (b) (1) that the transaction be made in the usual course of the parties' investment decisions, if historically the parties' usual course of investment decisions involves their discussion of proposed transactions with each other before they are made, but a sale proposed by one party is a matter of such urgency as to timing that the party proposing the sale has a good faith belief that the delay occasioned by such discussion would result in loss to the estate of the parties, then the party proposing the sale may proceed with the transaction without such prior discussion, but shall notify the other party of the transaction immediately upon its execution; provided, that a sale permitted by this subparagraph (B) shall be subject to all other conditions and provisions of subparagraph (A) of subsection (b) (1), so long as the transaction is intended to preserve the estate of the parties.

(2) Neither party shall conceal any property.

(3) Neither party shall encumber (except for the filing of a lis pendens) without the consent of the other party, in writing, or an order of a judicial authority, any property except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(4) Neither party shall cause any asset, or portion thereof, co-owned or held in joint name, to become held in **[**his or her**]** <u>that party's</u> name solely without the consent of the other party, in writing, or an order of the judicial authority.

(5) Neither party shall incur unreasonable debts hereafter, including, but not limited to, further borrowing against any credit line secured by

the family residence, further encumbrancing any assets, or unreasonably using credit cards or cash advances against credit cards.

(6) Neither party shall cause the other party to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(7) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners or renters insurance policies in full force and effect.

(8) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without order of a judicial authority. This provision shall not apply if there is a prior, contradictory order of a judicial authority.

(c) In all cases**[**:

(1) T**]**<u>t</u>he parties shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator within thirty days of the return day. The parties may thereafter enter and submit to the court a stipulated interim order allocating income and expenses, including, if applicable, proposed orders in accordance with the uniform child support guidelines.

**[**(2) The case management date for this case is ______________. The parties shall comply with Section 25-50 to determine if their actual presence at the court is required on that date.**]**

(d) The automatic orders of a judicial authority as enumerated above shall be set forth immediately following the party's requested relief in

any complaint for dissolution of marriage or civil union, legal separation, or annulment, or in any application for custody or visitation, and shall set forth the following language in bold letters:

**Failure to obey these orders may be punishable by contempt of court. If you object to or seek modification of these orders during the pendency of the action, you have the right to a hearing before a judge within a reasonable time.**

The clerk shall not accept for filing any complaint for dissolution of marriage or civil union, legal separation, or annulment, or any application for custody or visitation, that does not comply with this subsection.

COMMENTARY: Under the Pathways process used in family matters to improve outcomes for families by assessing the resources needed for each case at an early stage and placing the case on an appropriate pathway to resolution, the case will be assigned its first court event much before the case management date would have been. References to gender have also been removed from subsection (b) (4).

**Sec. 25-17. —Date for Hearing**

The <u>hearing on the</u> motion shall be **[**placed on the short calendar to be**]** held not less than fifteen days following the filing of the motion, unless the judicial authority otherwise directs.

COMMENTARY: Reference to placing the matter on the short calendar has been removed from this section.

**Sec. 25-23. Motions, Requests[,] <u>and</u> Orders of Notice [and Short Calendar]**

The provisions of Sections 11-1, 11-2, 11-4, 11-5, 11-6, 11-8, 11-10, 11-11, 11-12, 11-19, 12-1, 12-2 and 12-3 of the rules of practice shall apply to family matters as defined in Section 25-1.

COMMENTARY: Reference to "short calendar" has been removed from the title of this section.

**Sec. 25-26. Modification of Custody, Alimony or Support**

(a) Upon an application for a modification of an award of alimony pendente lite, alimony or support of minor children, filed by a person who is then in arrears under the terms of such award, the judicial authority shall, upon hearing, ascertain whether such arrearage has accrued without sufficient excuse so as to constitute a contempt of court, and, in its discretion, may determine whether any modification of current alimony and support shall be ordered prior to the payment, in whole or in part as the judicial authority may order, of any arrearage found to exist.

(b) Either parent or both parents of minor children may be cited or summoned by any party to the action to appear and show cause, if any they have, why orders of custody, visitation, support or alimony should not be entered or modified.

(c) If any applicant is proceeding without the assistance of counsel and citation of any other party is necessary, the applicant shall sign the application and present the application, proposed order and summons to the clerk; the clerk shall review the proposed order and summons and, unless it is defective as to form, shall sign the proposed order and summons and shall assign a date for a hearing or other court event on the application.

(d) Each motion for modification of custody, visitation, alimony or child support shall state clearly in the caption of the motion whether it is a pendente lite or a postjudgment motion.

(e) Each motion for modification shall state the specific factual and legal basis for the claimed modification and shall include the outstand-

ing order and date thereof to which the motion for modification is addressed.

(f) On motions addressed to financial issues, the provisions of Section 25-30 shall be followed.

(g) Upon or after entry of judgment of a dissolution of marriage, dissolution of civil union, legal separation or annulment, or upon or after entry of a judgment or final order of custody and/or visitation for a petition or petitions filed pursuant to Section 25-3 and/or Section 25-4, the judicial authority may order that any further motion for modification of a final custody or visitation order shall be appended with a request for leave to file such motion and shall conform to the requirements of subsection (e) of this section. The specific factual and legal basis for the claimed modification shall be sworn to by the moving party or other person having personal knowledge of the facts recited therein. If no objection to the request has been filed by any party within ten days of the date of service of such request on the other party, the request for leave may be determined by the judicial authority with or without hearing. If an objection is filed, the request shall be placed on the next short calendar, unless the judicial authority otherwise directs. At such hearing, the moving party must demonstrate probable cause that grounds exist for the motion to be granted. If the judicial authority grants the request for leave, at any time during the pendency of such a motion to modify, the judicial authority may determine whether discovery or a study or evaluation pursuant to Section 25-60 shall be permitted.

COMMENTARY: A disputed motion for modification is not always ready to be heard on its first court appearance. Assigning a hearing may be untimely and not an efficient or effective use of the parties'

time or the court's resources. Adding ''or other court event'' allows the matter to be given the court resources it needs. Should the parties reach an agreement at any court event, such agreement may be put on the record without the need for further court appearance.

**Sec. 25-30. Statements To Be Filed**

(a) At least five <u>business</u> days before the hearing date of a motion or order to show cause concerning alimony, support, or counsel fees, or at the time a dissolution of marriage or civil union, legal separation or annulment action or action for custody or visitation is scheduled for a hearing, each party shall file, where applicable, a sworn statement substantially in accordance with a form prescribed by the chief court administrator, of current income, expenses, assets and liabilities. When the attorney general has appeared as a party in interest, a copy of the sworn statements shall be served upon **[**him or her**]** <u>the attorney general</u> in accordance with Sections 10-12 through 10-17. Unless otherwise ordered by the judicial authority, all appearing parties shall file sworn statements within thirty days prior to the date of the decree. Notwithstanding the above, the court may render pendente lite and permanent orders, including judgment, in the absence of the opposing party's sworn statement.

(b) At least **[**ten**]** <u>five business</u> days before the scheduled family special masters session, alternative dispute resolution session, or judicial pretrial, the parties shall serve on each appearing party, but not file with the court, written proposed orders, and, <u>unless the matter is uncontested or the defendant has not appeared,</u> at least **[**ten**]** <u>five business</u> days prior to the date of the final **[**limited contested or contested**]** hearing <u>or trial</u>, the parties shall file with the court and serve on each appearing party written proposed orders.

(c) The written proposed orders shall be comprehensive and shall set forth the party's requested relief including, where applicable, the following:

(1) a parenting plan;

(2) alimony;

(3) child support;

(4) property division;

(5) counsel fees;

(6) life insurance;

(7) medical insurance; and

(8) division of liabilities.

(d) The proposed orders shall be neither factual nor argumentative but shall, instead, only set forth the party's claims.

(e) Where there is a minor child who requires support, the parties shall file a completed child support and arrearage guidelines worksheet at the time of any court hearing concerning child support; or at the time of a final hearing in an action for dissolution of marriage or civil union, legal separation, annulment, custody or visitation.

(f) At the time of any hearing, including pendente lite and postjudgment proceedings, in which a moving party seeks a determination, modification, or enforcement of any alimony or child support order, a party shall submit an Advisement of Rights Re: **[**Wage**]** Income Withholding Form (JD-FM-71).

COMMENTARY: The revisions to subsection (a) remove references to gender. The revisions to subsection (b) remove obsolete references to "limited contested" and "contested" matters, to include clarifying

language regarding written proposed orders, and to change the time to exchange/file written proposed orders from ten to five days prior to the designated court event to be consistent with Section 25-50A (f). The revisions to subsection (f) correct the title of the JD-FM-71 form. All time periods in this section, except for the requirement to file all statements thirty days prior to the date of the decree, are designated as business days at the request of the bar.

**Sec. 25-34. Procedure for Short Calendar [Repealed]**

**[**(a) With the exception of matters governed by Chapter 13 or a motion to waive the statutory time period in an uncontested dissolution of marriage or legal separation case under General Statutes § 46b-67 (b), oral argument on any motion or the presentation of testimony thereon shall be allowed if the appearing parties have followed administrative policies for marking the motion ready and for screening with family services. Oral argument and the presentation of testimony on motions made under Chapter 13 are at the discretion of the judicial authority.

(b) Any such motion filed to waive the statutory time period in an uncontested dissolution of marriage or legal separation case will not be placed on the short calendar. The clerk shall bring the motion as soon as practicable to either the judicial authority assigned to hear the case, or, if a judicial authority has not yet been assigned, to the presiding judicial authority for a ruling on the papers. If granted, the uncontested dissolution or legal separation is to be scheduled in accordance with the request of the parties to the degree that such request can be accommodated, including scheduling the matter on the same day that the motion is granted.

(c) If the judicial authority has determined that oral argument or the presentation of testimony is necessary on a motion made under

Chapter 13, the judicial authority shall set the matter for oral argument or testimony on a short calendar date or other date as determined by the judicial authority.

(d) If the judicial authority has determined that oral argument or the presentation of testimony is necessary on a motion made under Chapter 13 and has not set it down on a hearing date, the movant may reclaim the motion within thirty days of the date the motion appeared on the calendar.

(e) If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

(f) Failure to appear and present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise. Unless for good cause shown, no motion may be reclaimed after a period of three months from the date of filing. This subsection shall not apply to those motions where counsel appeared on the date set by the judicial authority and entered into a scheduling order for discovery, depositions and a date certain for hearing.**]**

COMMENTARY: This section has been repealed and is replaced by new Section 25-34A.

**(NEW) 25-34A. Scheduling of Motions**

(a) Any pendente lite motion filed shall, unless scheduled for the motion docket pursuant to subsection (c) of this section or otherwise scheduled or docketed by the court, be deemed automatically scheduled for the next case date held in the action pursuant to Section 25-50A or, if no future case dates are to be held, then for the time of trial. At least five business days before a case date, each party shall provide to the other party and file with the court a notice listing those

of the party's pending pendente lite motions, if any, that the party wishes to pursue at the case date, in the order of priority that the party wishes the motions to be heard. If a party fails to provide and file such list, or files a motion less than five business days before the case date and the nonmoving party objects to having such motion heard on the case date, the motion will not be heard on that date unless the court determines that the interests of justice would be served by hearing it on the case date and doing so would cause no substantial prejudice to the nonmoving party.

(b) Each judicial district shall have a regular motion docket for scheduling pendente lite motions. Such docket shall be scheduled on a regular basis, but at least once each month. Motions shall be placed on the motion docket in accordance with subsection (c) of this section.

(c) (1) With the exception of matters governed by Chapter 13, oral argument on any motion or the presentation of evidence thereon shall be allowed before the next court event at which the motion would otherwise be deemed scheduled pursuant to this section if an appearing party has requested that such motion be placed on the motion docket and the judicial authority has granted such request.

(2) A request that a motion be placed on the motion docket may be made as follows:

(A) when the parties appear before a judge, either party may orally request that a particular motion be placed on an upcoming motion docket, or (B) by filing a Caseflow Request (JD-FM-292) with the section for requesting placement of a pendente lite motion on a motion docket completed. Nothing in this section shall preclude a party from requesting that a motion be placed on the motion docket prior to the resolution plan date.

(3) In acting on a request to place a motion on the motion docket, the court may consider the following factors along with any other factors the court deems relevant: (A) the nature of the motion and the reasons stated for the request, including but not limited to the need of either party for a court order regarding (i) sufficient child support or alimony to meet the reasonable current expenses, (ii) custody, visitation or decision making regarding children, (iii) occupancy of the party's dwelling unit, (iv) use of a motor vehicle, or (v) essential personal property of one party in the possession of the other party; (B) if not placed on the motion docket, the length of time before the next court date at which the motion could be heard; (C) whether the motion is related to, or duplicative of, another motion or motions already heard or scheduled to be heard; (D) if the case has been assigned to a designated judge, the availability of that judge to hear the motion if it is placed on a motion docket.

(4) If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

(5) Parties are required to appear and be prepared to proceed with a hearing on the day of the assigned motion docket unless a timely request for continuance has been granted, or the motion is withdrawn or resolved by agreement in advance.

(6) Nothing in this section shall prevent the judicial authority from assigning any other motion to be heard on the motion docket.

(d) Oral argument and the presentation of evidence on motions made under Chapter 13 and other nonarguable motions are at the discretion of the judicial authority. The nonmoving party shall have a period of five business days to file an objection to such a motion, unless

the Practice Book specifies a different period of time for objection to the particular type of motion filed, in which case the different period shall apply. After allowing the applicable period for objection, the court may, in its discretion, rule on the motion or assign the matter for oral argument or an evidentiary hearing, provided that argument or a hearing shall be scheduled if any other rule applicable to the motion in question requires the same when an objection is filed.

If the judicial authority has determined that oral argument or the presentation of evidence is necessary on a motion made under Chapter 13 or other nonarguable motion, the judicial authority shall set the matter for oral argument or an evidentiary hearing on a case date or motion docket upon consideration of the same factors set forth in subsection (c) of this section for the placement of arguable motions on the motion docket, or other date determined by the judicial authority.

(e) Failure to appear and to present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise. This subsection shall not apply to those motions where counsel appeared on the date set by the judicial authority and entered into an agreement for a scheduling order for discovery, depositions and a date certain for hearing that was approved and ordered by the court.

(f) Unless otherwise ordered by the court: (1) a postjudgment motion that does not relate to emergency ex parte relief will be assigned a resolution plan date in the same manner as set forth in Section 25-50A (a); (2) if an additional postjudgment motion is filed in the same case before the resolution plan date is held, it will be scheduled for the same resolution plan date; and (3) if an additional postjudgment

motion is filed in the same case after the resolution plan date is held, but before the court hearing date for the original motion, the subsequent motion will be scheduled for the same hearing date as the original motion. Nothing in this subsection shall preclude the court from issuing an order on the resolution plan date.

COMMENTARY: Under Pathways, a motion docket, which is explained in this section, has been created for matters of urgency that cannot wait until the next scheduled court event. While it is neither necessary nor possible to enumerate all of the factors considered in a scheduling decision, the rule is intended to provide guidance to the parties as to some of the criteria the court may generally consider in placing a matter on the motion docket.

### Sec. 25-49. Definitions

For purposes of these rules the following definitions shall apply:

(1) ''Uncontested matter'' means a case in which both parties are appearing and no aspect of the matter is in dispute.

(2) ''Financial Disputes'' means a case in which monetary awards, real property or personal property are in dispute.

(3) ''Parenting Disputes'' means a case in which child custody, visitation rights, also called parenting time or access, <u>parentage</u> **[**paternity**]** or the grounds for the action are in dispute.

A case may contain both financial and parenting disputes.

COMMENTARY: The revisions to this section comply with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

### Sec. 25-50. Case Management [Replealed]

**[**(a) The presiding judge or a designee shall determine by the case management date which track each case shall take and assign each

case for disposition. That date shall be set on a schedule approved by the presiding judge.

(b) In all cases, unless the party or parties appear and the case proceeds to judgment under subsection (c) or (d) on the case management date, the party or parties shall file on or before the case management date:

(1) a case management agreement (JD-FM-163);

(2) sworn financial affidavits;

(3) a proposed parenting plan, if there are minor children.

If the parties or counsel have not filed these documents on or before the case management date, or in a case with parenting disputes where counsel or self-represented parties have not come to court on the case management date, the case may be dismissed or other sanctions may be imposed.

(c) If the defendant has not filed an appearance by the case management date, the plaintiff may appear and proceed to judgment on the case management date without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30. Otherwise, the plaintiff must file, on or before the case management date, the documents listed in subsection (b) and the clerk shall assign the matter to a date certain for disposition.

(d) If the matter is uncontested, the parties may appear and proceed to judgment on the case management date, provided the plaintiff has complied with the provisions of Section 25-30. Otherwise, the parties must file, on or before the case management date, the documents listed in subsection (b) and the clerk shall assign the matter to a date certain for disposition.

(e) In cases where there are financial disputes, the parties do not have to come to court on the case management date, but must file on or before the case management date the documents listed in subsection (b). Thereafter, the matter may be directed to any alternative dispute resolution mechanism, private or court-annexed, including, but not limited to, family special masters and judicial pretrial. If not resolved, the matter will be assigned a date certain for trial.

(f) In cases where there are parenting disputes, the parties and counsel must appear for a case management conference on the case management date. If parenting disputes require judicial intervention, the appointment of counsel or a guardian ad litem for the minor child, or case study or evaluation by family services or by a private provider of services, a target date shall be assigned for completion of such study and the final conjoint thereon and, thereafter, a date certain shall be assigned for disposition.

(g) With respect to subsections (e) and (f), if a trial is required, such order may include a date certain for a trial management conference between counsel or self-represented parties for the purpose of premarking exhibits and complying with other orders of the judicial authority to expedite the trial process.**]**

COMMENTARY: This section has been repealed and is replaced by new Section 25-50A.

**(NEW) Sec. 25-50A. Case Management under Pathways**

The Pathways approach shall be followed and shall include:

(a) A resolution plan date, which shall be assigned in dissolution of marriage, dissolution of civil union, legal separation, and annulment

cases, no less than thirty days and no more than sixty days from the return date, and in custody and visitation cases in accordance with Sections 25-3 and 25-4, to meet with a family relations counselor to identify: (1) all matters where the parties agree; (2) how likely the parties are to reach an agreement on any disputed issues; and (3) the resources needed to resolve the case. The family relations counselor will recommend an action plan for the court's consideration, including a recommendation for one of three tracks: (1) Track A for cases that require the lowest level of court time and resources, including cases that are fully resolved on the resolution plan date; (2) Track B for cases that are expected to require a moderate level of court time and resources; or (3) Track C for cases with disputes about major issues that are expected to require the highest level of judicial time and resources. Failure to appear at the resolution plan date or comply with the court's orders regarding the resolution plan date may result in sanctions or the entry of a nonsuit, default, or dismissal. After considering the recommendations of the family relations counselor and input from the parties, the court shall make a scheduling order on that day which shall include, but is not limited to, assigning the case to a track, scheduling future court dates (including one or more case dates), ordering a schedule for discovery, and specifying the steps the parties must take between such court dates. The parties must follow the terms of the scheduling order, or the case may be dismissed, or other sanctions may be imposed. Nothing in this section shall preclude the court from issuing temporary orders on the resolution plan date on any pending pleading before the court by consent of the parties or as otherwise determined by the judicial authority.

(b) In all cases, except those seeking only visitation, the party or parties shall file sworn financial affidavits on or before the resolution plan date.

(c) If, in a dissolution of marriage, dissolution of civil union, legal separation or annulment case, the defendant has not filed an appearance, not earlier than thirty days after the return date, the plaintiff may file a motion in accordance with General Statutes § 46b-67 (b) and, if granted, appear and proceed to judgment without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30. If such motion is filed, and the respondent was served personally or at the respondent's usual place of abode, the court may, in accordance with General Statutes § 46b-67 (b), enter judgment with or without a hearing. If service was made in any other manner, no judgment shall be entered until after a hearing held at least sixty days after the return date.

(d) If the matter is uncontested, the parties may follow the proper procedures to proceed to judgment without a hearing or may appear and proceed to judgment at a hearing at any time, subject to the schedule of the court and provided the parties have complied with the provisions of Section 25-30. Otherwise the clerk shall assign the matter to a date certain for disposition.

(e) In a Track B or Track C case, the scheduling order issued by the court may include, but is not limited to, one or more of the following: (1) one or more case dates for the court to hear or address matters that need to be considered before the final trial date; (2) assignment of motions to a motion docket; (3) a date for pretrial; (4) a trial date; and (5) a discovery schedule.

(f) Unless otherwise ordered by the court, in any case assigned a judicial, family relations or special master pretrial, the parties must

exchange and submit to the authority presiding over the pretrial at least five business days prior to the scheduled pretrial: (1) a nonargumentative memorandum that sets forth the facts relevant to the criteria in General Statutes §§ 46b-81 and 46b-82; (2) written proposed orders in accordance with Section 25-30 (c) and (d), which shall be comprehensive and state the parties' requested relief; (3) current sworn financial affidavits, including a detailed income statement, a list of assets and liabilities, the value of all assets, current value of all retirement and employment benefits and any proposed distribution; and (4) if there are minor children, a fully completed child support guidelines worksheet that the parties agree to. If the parties do not agree, each party shall individually provide a fully completed child support guidelines worksheet.

The parties must be prepared to provide any supporting documentation needed and bring such documentation to the pretrial.

If a party does not fully comply with this subsection, sanctions may be imposed by the presiding judge.

COMMENTARY: This new rule reflects the elements and requirements of case management under Pathways and aligns with the statutory provisions referred to in the rule.

**Sec. 25-51. When Motion for Default for Failure To Appear Does Not Apply**

**[**(a)**]** If, in any case involving a dissolution of marriage or civil union, legal separation, or annulment, the defendant has not filed an appearance **[**by the case management date**]**, the plaintiff may proceed to judgment **[**on the case management date without further notice to such

defendant] in accordance with Section 25-50A and General Statutes § 46b-67. Section 17- 20 concerning motions for default shall not apply to such cases.

[(b) If the defendant files an appearance by the case management date, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50.]

COMMENTARY: The changes to this section are intended to align this rule with the statutory provisions relating to such matters and to reference Section 25-50A.

**Sec. 25-53. Reference of Family Matters**

In any family matter the court may, upon its own motion or upon motion of a party, refer any [contested, limited contested, or uncontested] matter for hearing and decision to a judge trial referee who shall have been a judge of the referring court. Such matters shall be deemed to have been referred for all further proceedings and judgment, including matters pertaining to any appeal therefrom, except that the referring court may retain jurisdiction to hear and decide any pendente lite or contempt matters.

COMMENTARY: The revisions to this section delete obsolete references to case status.

**Sec. 25-68. Right to Counsel in State Initiated Parentage [Paternity] Actions**

(a) An alleged parent [putative father] named in a state initiated parentage [paternity] action shall be advised by the judicial authority of the alleged parent's [his] right to be represented by counsel and such parent's [his] right to court-appointed counsel if indigent. If the

alleged parent [he] is unable to obtain counsel [by reason of his] due to indigency, such parent [he] shall have counsel appointed [to represent him] unless [he waives such] the appointment is waived pursuant to Section 25-64.

(b) In cases under this section, a copy of the parentage [paternity] petition shall be served on the attorney general in accordance with the provisions of Sections 10-12 through 10-17. The attorney general shall be a party to such cases, but [he or she] need not be named in the petition or summoned to appear.

COMMENTARY: The revisions to this section comply with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

## AMENDMENTS TO THE FAMILY SUPPORT MAGISTRATE RULES

### Sec. 25a-8. Order of Notice

(a) On a petition for support or the establishment of parentage [paternity] when the adverse party resides out of or is absent from the state or whereabouts of the adverse party are unknown to the plaintiff or the applicant, any judicial authority or clerk of the court may make such order of notice as he or she deems reasonable. If such notice is by publication, it shall not include the automatic orders set forth in Section 25a-7, but shall, instead, include a statement that automatic orders have issued in the case pursuant to Section 25a-7 and that such orders are set forth in the application or petition on file with the court. Such notice having been given and proved, the judicial authority may hear the application or petition if it finds that the adverse party has actually received notice that the application or petition is

pending. If actual notice is not proved, the judicial authority in its discretion may hear the case or continue it for compliance with such further order of notice as it may direct.

(b) With regard to any motion for modification or for contempt or any other motion requiring an order of notice, where the adverse party resides out of or is absent from the state, any judicial authority or clerk of the court may make such order of notice as he or she deems reasonable. Such notice having been given and proved, the court may hear the motion if it finds that the adverse party has actually received notice that the motion is pending.

COMMENTARY: The revision to this section complies with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

**Sec. 25a-12. Order of Pleadings**

The order of pleadings shall be:

(1) The petition for establishment of parentage **[**paternity**]** and/or petition for support;

(2) the defendant's motion to dismiss the petition;

(3) the defendant's motion to strike the petition or claims for relief;

(4) the defendant's answer, cross petition and claims for relief;

(5) the plaintiff's motion to strike the defendant's answer, cross petition, or claims for relief;

(6) the plaintiff's answer.

COMMENTARY: The revision to this section complies with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

**Sec. 25a-17. Motion To Open Judgment of Parentage [Paternity] by Acknowledgment**

(a) Any signatory to an acknowledgment of parentage **[**Any mother or acknowledged father**]** who wishes to challenge said **[**an**]** acknowl-

edgment [of paternity] pursuant to General Statutes § 46b-483 [46b-172 (a) (2)] shall file a motion to open judgment, which shall state the statutory grounds upon which the motion is based and shall append a certified copy of the document containing the acknowledgment of parentage [paternity] to such motion.

(b) Upon receipt of such motion to open and accompanying document, the clerk shall cause the matter to be docketed.

(c) Any action to challenge an acknowledgment of parentage [paternity] for which there is no other family court file involving the same parties shall be commenced by an order to show cause accompanied by the motion to open judgment and the document containing the acknowledgment of parentage [paternity] required by subsection (a) of this section. Upon presentation of the motion to open and the acknowledgment of parentage [paternity], the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested by the moving party should not be granted. The motion to open, acknowledgment of parentage [paternity] and order shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the challenge.

(d) If the judicial authority determines that the moving party has met the burden of proof, the acknowledgment of parentage shall be set aside only if the judicial authority determines that doing so is in the best interest of the child, based on the relevant factors set forth in General Statutes § 46b-475.

**[**(d)**]** (e) Nothing in this section shall preclude an individual from filing a special defense of a challenge to a parentage **[**paternity**]** judgment, or a counterclaim in response to a petition for support.

COMMENTARY: The revisions to this section comply with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

**Sec. 25a-22. Interrogatories; In General**

(a) In any action in the family support magistrate division to establish, enforce or modify a child support order, upon motion of any party and when the judicial authority deems it necessary, any party may be required to answer all or part of the interrogatories set forth in Form 207 of the rules of practice, which is printed in the Appendix of Forms in this volume.

(b) In any parentage **[**paternity**]** action before the family support magistrate division, interrogatories may only be served upon a party where the judicial authority deems it necessary.

(c) For good cause shown, in postjudgment matters, the judicial authority may upon motion authorize further discovery.

COMMENTARY: The revision to this section complies with the requirements of the Parentage Act, Public Acts 2021, No. 21-15.

## 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. The definition of "youth" shall be as set forth in General Statutes § 54-76b.

(b) "Alleged genetic parent" means a person who is alleged to be, or alleges that the person is, a genetic parent or possible genetic parent of a child or youth whose parentage has not been adjudicated. "Alleged genetic parent" includes an alleged genetic father and alleged genetic mother. "Alleged genetic parent" shall not include: (1) a presumed parent; (2) a person whose parental rights have been terminated or declared not to exist; or (3) a donor.

(c) "Clinical Coordinator" means a licensed mental health professional with specialized forensic training and employed by the court support services division of the Judicial Branch to provide consultation and assessment in delinquency matters related to the behavioral health and mental health of the child.

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

**[**(b)**]** (e) "Commitment" means an order of the judicial authority whereby custody and/or guardianship of a child or youth are transferred to the Commissioner of the Department of Children and Families.

**[**(c)**]** (f) "Complaint" means a written allegation or statement presented to the judicial authority that a child's or youth's conduct as a

delinquent brings the child or youth within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

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

**[**(d)**]** (h) "Guardian" means a person who has a judicially created relationship with a child or youth, 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 or youth: protection, education, care and control of the person, custody of the person and decision making.

**[**(e)**]** (i) "Hearing" means an activity of the court on the record in the presence of a judicial authority and shall include: (1) "Adjudicatory hearing"**[**: A**]** is 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) "Dispositional**[**ve**]** hearing"**[**: The judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition or information having been established,**]** is a court hearing in which the judicial authority, after considering the social

study or predispositional study and the total circumstances of the child or youth, orders whatever action is in the best interests of the child or youth 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 or youth 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**]** their rights, admits, denies, or pleads nolo contendere to allegations contained in the petition; or (B) a child or youth who is a named respondent in a delinquency petition or information enters a plea of not guilty, guilty, or nolo contendere upon being advised of the charges against **[**him or her**]** them 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 youth or the public, and convene a hearing on the request within seven days.

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

**[**(g)**]** (k) ‘‘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.

(*l*) ‘‘Parent’’ means a person who has established a parent-child relationship pursuant to General Statutes § 46b-471.

**[**h**]** (m) ‘‘Parties’’ includes: (1) The child or youth who is the subject of a proceeding **[**and those additional persons as defined herein**]**; (2) **[**‘‘Legal party’’: A**]**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’’: A**]**any person who is permitted to intervene in accordance with Section 35a-4.

(n) ‘‘Person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3)’’ means a person who jointly with another parent, resided in the same household with the child and openly held out the child as the person’s own child from the time the child was born or adopted and for a period of at least two years thereafter, including any period of temporary absence.

**[**(i)**]** (o) ‘‘Permanency plan’’ means a plan developed by the Commissioner of the Department of Children and Families for the permanent placement of a child or youth in the commissioner’s care. Permanency

plans shall be reviewed by the judicial authority as prescribed in General Statutes §§ 17a-110 (b), 17a-111b (c), 46b-129 (k), and 46b-149 (h).

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

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

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

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

**[**(n)**]** (t) ''Respondent'' means a child or youth **[**person**]** who is alleged to be a delinquent, or a parent or a guardian of a child or youth who is the subject of a petition alleging that the child or youth is uncared for, abused, neglected, or requesting termination of parental rights.

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

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

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

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

**[**(r)**]** (y) ''Staff-secure residential facility'' means a residential facility that provides residential treatment for **[**children**]** a child or youth in a structured setting **[**where the children are**]** monitored by staff.

**[**(s)**]** (z) ''Supervision'' includes: (1) ''Nonjudicial supervision,''**[**: A**]** a legal status without the filing of a petition or a court conviction or adjudication but following the child's or youth's admission to a complaint wherein a probation officer exercises supervision over the child

or youth with the consent of the child or youth and the parent; (2) "Protective supervision,"**[**: A**]** 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 or youth when the child's or youth'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**]** a legal status similar to probation for a child or youth subject to supervision pursuant to an order of suspended delinquency proceedings under General Statutes § 46b-133b or § 46b-133e.

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

COMMENTARY: The revisions to this section conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15. The changes to this section add several definitional terms that are related to delinquency matters in juvenile court. Definitions of the terms: "youth," "alleged genetic parent," "person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3)", and "parent" have been added.

**Sec. 26-2. Persons in Attendance at Hearings**

(a) Except as provided in subsection (b) of this section, any judge hearing a juvenile matter**[,]** may, during such hearing, exclude from the courtroom in which such hearing is held any person whose presence is, in the court's opinion, not necessary, except that in delinquency proceedings, any victim or a victim's next of kin shall not be excluded unless, after hearing from the parties and the victim or a victim's next of kin and for good cause shown, which shall be clearly and specifically stated on the record, the judge orders otherwise.

(b) Any judge hearing a juvenile matter, in which a child or youth is alleged to be uncared for, neglected or abused or in which a child or youth is the subject of a petition for termination of parental rights, may permit any person whom the court finds has a legitimate interest in the hearing or the work of the court to attend such hearing. Such person may include a party, foster parent, relative related to the child or youth by blood or marriage, service provider or any person or representative of any agency, entity or association, including a representative of the news media. The court may, as a condition of participation, for the child's or youth's safety and protection and for good cause shown, prohibit any person or representative of any agency, entity or association, including a representative of the news media, who is present in court from further disclosing any information that would identify the child or youth, the custodian or caretaker of the child or youth or the members of the child's or youth's family involved in the hearing.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book. The term "victim's next of

kin'' has been added to comply with Public Act 2023, No. 23-46, § 5, and General Statutes § 46b-122 (b).

### 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 supervisor or designee determines that a delinquency complaint is eligible for nonjudicial handling, the assigned probation officer 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 or youth for the purpose of conducting risk and behavioral health screenings. A child or youth 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 or youth 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 are for consistency with other sections of the Practice Book.

**Sec. 27-4. Additional Offenses and Misconduct**

Any additional police summons, delinquency complaint, delinquency petition, or information regarding a child or youth which is received by the court prior to action by the judicial authority on any pending request for nonjudicial handling shall be consolidated with the initial offenses or misconduct for purposes of eligibility for nonjudicial handling.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

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

In the case of a delinquency complaint, a child or youth 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) a serious juvenile offense under General Statutes § 46b-120;

(B) a violent felony; or

(C) a violation of General Statutes § 53a-54d; or

(2) The alleged misconduct was committed by a child or youth while on probation or under judicial supervision.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 27-5. Initial Interview for Delinquency Nonjudicial Handling Eligibility**

(a) At the initial interview to determine eligibility for nonjudicial handling of a delinquency complaint, held at the time of arraignment or notice date, the probation officer shall inquire of the child or youth and parent or guardian whether they have read the court documents and understand the nature of the complaint set forth therein. Any allegations of misconduct being considered for nonjudicial handling, including any additional allegations not contained in the summons or notice to appear because they were filed with the court after the issuance of that notice shall likewise be explained in simple and nontechnical language.

(b) The probation officer shall inform the child or youth and parent or guardian of their rights under Section 30a-1. If either the child or youth or the parent or guardian state that they wish to be represented by counsel, or if the probation officer determines that a judicial hearing is necessary, the interview shall end. Any further interview to consider nonjudicial handling shall take place with counsel present unless waived.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 27-6. Denial of Responsibility**

Where the child or youth denies responsibility for the alleged misconduct, the interview shall end and the child or youth and the parent or guardian shall be informed that, if the evidence warrants, the case will be set down for a plea hearing.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 27-7. —Written Statement of Responsibility**

(a) Where the child or youth and the parent or guardian affirm that they are ready to go forward with the investigation, with or without counsel, and to make a statement concerning the child's or youth's responsibility for the alleged misconduct, such affirmation must be embodied in a written statement of responsibility executed by both child or youth and parent, or guardian, and, in the case of the child or youth, in the presence of the parent or guardian.

(b) If a child or youth orally acknowledges responsibility for the alleged misconduct but refuses to execute a written statement of responsibility, such an oral admission shall not be accepted as the equivalent of an admission, and the case shall be dealt with in the manner prescribed in Section 27-6. If the written statement of responsibility is executed, the probation officer shall proceed with the nonjudicial handling of the case.

(c) The age, intelligence and maturity of the child or youth and the mutuality of interests between parent or guardian and child or youth shall be weighed in determining their competency to execute such written statement of responsibility.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 27-8A. Nonjudicial Supervision—Delinquency**

(a) If a child or youth has acknowledged responsibility for the alleged misconduct which is not one for which a judicial hearing is mandated pursuant to Section 27-4A, and the probation officer has then found from investigation of the child's or youth's total circumstances that

some form of court accountability less exacting than that arising out of a court appearance appears to be in the child's or youth's best interests, the officer may, subject to the conditions imposed by subsection (b) hereof, place the child or youth on nonjudicial supervision for a term established by the juvenile probation supervisor for a period not to exceed 180 days.

(b) Whenever the probation officer seeks to effect nonjudicial supervision, the parent and the child or youth shall have a right to a conference with the probation officer's administrative superior, or a court hearing. Whenever a parent or child or youth elects to pursue either or both rights, supervision shall be held in abeyance until the outcome thereof.

(c) Such nonjudicial supervision when completed shall constitute a resolution of the case, and thereafter a child or youth may not again be presented for formal court action on the same summons, complaint or petition or the facts therein set forth, provided however, that a judicial hearing may be initiated on the original summons, complaint, petition, or information during said nonjudicial supervision if there has been a failure to comply with terms of the supervision and any oral or written statement of responsibility shall not be used against the child or youth. When the judicial authority refers the file for nonjudicial handling, the referral order should provide that upon successful completion of any nonjudicial handling, the matter will be dismissed and erased immediately without the filing of a request, application or petition for erasure, for all purposes except for subsequent consideration for nonjudicial handling under Section 27-4A.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 29-1. Contents of Delinquency Petitions or Informations**

A delinquency petition or information shall set forth in plain, concise and definite language the offense which the petitioner contends the child or youth has committed. The petition or information shall further state the citation of any provision of law which is the basis of the petition or information, together with a statement that the offense occurred on or about a particular date or period of time at a particular location.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30-3. Advisement of Rights**

Upon admission to a juvenile residential center, the child or youth 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 or youth and the child's or youth's attorney.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30-4. Notice to Parents by Juvenile Residential Center Personnel**

Upon admission, the Juvenile Residential Center 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 juvenile residential center, shall advise the parent or guardian of **[**his or her**]** their rights and note the child's or youth's rights, including the child's or youth's right to a detention hearing.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30-5. Detention Time Limitations**

(a) No child or youth shall be held in 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 or youth 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 or youth 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**[,]** juvenile residential center.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30-6. Basis for Detention**

No child or youth may be held in 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 or youth 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 or youth 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 or youth in order to ensure the child's or youth's appearance before the court or compliance with court process, as demonstrated by the child's or youth's previous failure to respond to the court process, or (3) a need to hold the child or youth 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 or youth developed by the Judicial Branch.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30-7. Place of Detention Hearings**

The initial detention hearing shall be in the Superior Court for juvenile matters where the child or youth resides if the residence of the child or youth can be determined, and, thereafter, detention hearings shall be held at the Superior Court for juvenile matters of appropriate venue.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**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 or youth and the child's or youth's attorney and there is a finding by the judicial authority that the circumstances outlined in Section 30-6 pertain to the child or youth in question. An order of detention entered without a hearing shall authorize the detention of the child or youth 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 Juvenile Residential Center Superintendent or a designated representative to release the child or youth 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 or youth shall be released from 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 for consistency with other sections of the Practice Book.

**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 or youth has committed a delinquent act and that at least one of the factors outlined in Section 30-6 applies to the child or youth.

(b) If the child or youth is placed in 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 or youth is not placed in 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 <u>or youth</u> has violated any condition, a judicial authority may issue a take into custody order or order such child <u>or youth</u> 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 <u>or youth</u> in accordance with General Statutes § 46b-128 (b), or, if the child <u>or youth</u> is represented, by serving the order to appear upon the child's <u>or youth's</u> counsel, who shall notify the child <u>or youth</u> of the order and the hearing date. After a hearing and upon a finding that the child <u>or youth</u> has violated reasonable conditions imposed on release, the judicial authority may impose different or additional conditions of release or may remand the child <u>or youth</u> to a juvenile residential center.

(d) In conjunction with any order of release from a juvenile residential center, the judicial authority may, in accordance with General Statutes § 46b-133 (g), order the child <u>or youth</u> 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 a juvenile residential center.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

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

While awaiting implementation of the judicial authority's order in a delinquency case, a child <u>or youth</u> may be held in 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 for consistency with other sections of the Practice Book.

**Sec. 30-12. Where Presence of a Detained Child or Youth May Be by Means of an Interactive Audiovisual Device**

(a) The appearance of a detained child or youth for proceedings held in accordance with Sections 30-10 and 30-11 may, with the consent of the detained child or youth, the consent of counsel for the detained child or youth, and in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such interactive audiovisual device must operate so that such detained child or youth, counsel, and the judicial authority if the proceeding is in court, can see and communicate with each other simultaneously. In addition, a procedure by which such detained child or youth can confer with counsel in private must be provided.

(b) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to a detention hearing in which a detained child or youth appears by means of an interactive audiovisual device, copies of all documents which may be offered at the detention hearing shall be provided to all counsel.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30a-1. Initial Plea Hearing**

(a) The judicial authority shall begin the hearing by determining whether all necessary parties are present, [and] that the rules governing service or notice for nonappearing parties have been complied

with, and shall note these facts for the record. The judicial authority shall then inform the parties of the substance of the petition or information.

(b) In age appropriate language, the judicial authority prior to any plea shall advise the child or youth and parent or guardian of the following rights:

(1) That the child or youth is not obligated to say anything and that anything that is said may be used against the child or youth**[.]** ;

(2) That the child or youth is entitled to the services of an attorney and that if the child or youth and the parent or parents, or guardian are unable to afford an attorney for the child or youth, an application for a public defender or an attorney appointed by the chief public defender should be completed and filed with the Office of the Public Defender or the clerk of the court to request an attorney without cost**[.]** ;

(3) That the child or youth will not be questioned unless **[**he or she**]** they consent**[s]**, that the child or youth can consult with an attorney before being questioned and may have an attorney present during questioning, and that the child or youth can stop answering questions at any time**[.]** ;

(4) That the child or youth has the right to a trial and the rights of confrontation and cross-examination of witnesses**[.]** ; and

(5) That the child or youth has the right to appeal any final decision made by the court.

(c) Notwithstanding any prior statement acknowledging responsibility for the acts alleged, the judicial authority shall inquire of the child or youth whether the child or youth presently admits or denies the allegations of the petition or information.

(d) If the judicial authority determines that a child or youth, or the parent, parents or guardian of a child or youth are unable to afford

counsel for the child or youth, the judicial authority shall, in a delinquency proceeding, appoint the Office of the Public Defender to represent the child or youth.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require the provision of an attorney to represent the child, youth or the child's or youth's parent or parents, guardian or other person having control of the child or youth, in any delinquency proceeding, the judicial authority may appoint an attorney to represent any such party and shall notify the chief public defender who shall assign an attorney to represent any such party. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such parent or parents, guardian or other person having control of the child or youth, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the Public Defender Services Commission in providing such counsel, to the extent of their financial ability to do so in accordance with the rates established by the Public Defender Services Commission for compensation of counsel.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book. Subsection (b) (5) has been added to ensure the judicial authority advises the child or youth of their right to appeal any final decision of the court.

**Sec. 30a-4. Plea Canvass**

To assure that any plea or admission is voluntary and knowingly made, the judicial authority shall address the child or youth in age

appropriate language to determine that the child or youth substantially understands:

(1) The nature of the charges;

(2) The factual basis of the charges;

(3) The possible penalty, including any extensions or modifications;

(4) That the plea or admission must be voluntary and not the result of force, threats, or promises, apart from the plea agreement;

(5) That the child or youth has (i) the right to deny responsibility or plead not guilty or to persist if that denial or plea has already been made, (ii) the right to be tried by a judicial authority and (iii) at trial, the right to the assistance of counsel, the right to confront and cross-examine witnesses against **[**him or her**]** <u>them</u>, and the right not to be compelled to incriminate **[**himself or herself**]** <u>themselves</u>.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30a-5. Dispositional Hearing**

(a) The dispositional hearing may follow immediately upon an adjudication.

(b) The judicial authority may admit into evidence any testimony that is considered relevant to the issue of the disposition, in any form the judicial authority finds of probative value, but no disposition shall be made by the judicial authority until the predispositional study, unless waived, has been submitted. A written predispositional study may be waived by the judicial authority for good cause shown upon the request of the parties, provided that the basis for the waiver and the probation officer's oral summary of any investigation are both placed on the record. The predispositional study shall be presented to the judicial

authority and copies thereof shall be provided to all counsel in sufficient time for them to prepare adequately for the dispositional hearing, and, in any event, no less than forty-eight hours prior to the date of the disposition.

(c) No disposition for probation supervision with residential placement in either a secure or staff-secure facility shall be made by the court until the written predispositional study and service memorandum have been submitted and reviewed by the judicial authority and a finding has been made by the judicial authority that (1) such placement is indicated by the child's or youth's clinical and behavioral needs or (2) the level of risk the child or youth poses to public safety cannot be managed in a less restrictive setting. The written predispositional study and service memorandum shall be presented to the judicial authority, and copies thereof shall be provided to all counsel in sufficient time to prepare adequately for the dispositional hearing.

(d) In cases in which the disposition is probation supervision with residential placement, the child's or youth's length of stay in a residential facility shall be dependent on the child's or youth's treatment progress and attainment of treatment goals, for an indeterminate period not to exceed eighteen months, exclusive of any request made for an extension of probation.

**[**(c)**]** (e) The prosecutor, the attorney for the child or youth, **[**and**]** the child or youth, and parent or guardian for the child or youth shall have the right to produce witnesses and evidence, including an independent evaluation, on behalf of any dispositional plan they may wish to offer.

**[**(d)**]** (f) Prior to any disposition, the child or youth shall be allowed a reasonable opportunity to make a personal statement to the judicial authority in mitigation of any disposition.

**[**(e)**]** (g) The judicial authority shall determine an appropriate disposition upon adjudication of a child or youth as delinquent in accordance with General Statutes § 46b-140.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book. The principal changes to this section incorporate the requirements of General Statutes § 46b-140 (g). In particular, new subsection (c) mandates the filing, and a review by the judicial authority, of a predispositional study and service memorandum prior to entering a dispositional order of probation with placement in a secure or staff-secure facility. The subsection also outlines specific findings that the judicial authority must make prior to entering such an order. Additionally, new subsection (d) clarifies that, pursuant to subsections (b) and (g) of § 46b-140, the child or youth may remain on probation with placement in a residential facility for up to eighteen months, depending on the child's or youth's progress in treatment. The subsection further explains that the initial order of probation with residential placement is subject to extension pursuant to General Statutes § 46b-140a for not more than twelve months. The remaining changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30a-6. —Statement on Behalf of Victim**

Whenever a victim of a delinquent act, the parent or guardian of such victim or such victim's counsel exercises the right to appear before the judicial authority for the purpose of making a statement to

the judicial authority concerning the disposition of the case, no statement shall be received unless the delinquent child or youth has signed a statement of responsibility, confirmed a plea agreement or been adjudicated as a delinquent.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 30a-8. Records**

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

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

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

COMMENTARY: The change to this section adds "service memorandum" to the list of materials contained in the court record that may not, except as otherwise provided by statute, be copied or otherwise reproduced in written form without the express consent of the judicial authority.

**Sec. 31a-5. Motion for Judgment of Acquittal**

(a) After the close of the juvenile prosecutor's case-in-chief, upon motion of the child or youth, or upon its own motion, the judicial

authority shall order the entry of a judgment of acquittal as to any principal offense charged and as to any lesser included offense for which the evidence would not reasonably permit an adjudication. Such judgment of acquittal shall not apply to any lesser included offense for which the evidence would reasonably permit a finding of guilty.

(b) The judicial authority shall either grant or deny the motion before calling upon the child or youth to present the respondent's case-in-chief. If the motion is not granted, the respondent may offer evidence without having reserved the right to do so.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 31a-11. Motion for New Trial**

(a) Upon motion of the child or youth, the judicial authority may grant a new trial if it is required in the interest of justice in accordance with Section 42-53 of the rules of criminal procedure.

(b) Unless otherwise permitted by the judicial authority in the interests of justice, a motion for a new trial shall be made within five days after an adjudication or within any further time the judicial authority allows during the five day period.

(c) A request for a new trial on the ground of newly discovered evidence shall require a petition for a new trial and shall be brought in accordance with General Statutes § 52-270. The judicial authority may grant the petition even though an appeal is pending.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 31a-13. Take into Custody Order**

(a) Upon written application in a delinquency proceeding, a take into custody order may be issued by the judicial authority:

(1) Upon a finding of probable cause to believe that the child or youth is responsible for**[:]** (A) a delinquent act, including violation of court orders of probation or the failure of the child or youth charged with a delinquent act, duly notified, to attend a pretrial, probation or evaluation appointment, or (B) for failure to comply with any duly warned condition of a suspended order of detention. The judicial authority also must find at the time it issues a take into custody order that a ground for detention pursuant to Section 30-6 exists before issuing the order**[.]** ;

(2) For failure to appear in court in response to a delinquency petition or summons served in hand or to a direct notice previously provided in court.

(b) Any application for a take into custody order must be supported by a sworn statement alleging facts to substantiate probable cause, and where applicable, a petition or information charging a delinquent act.

(c) Any child or youth detained under a take into custody order is subject to Sections 30-1A through 30-11.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 31a-14. Physical and Mental Examinations**

(a) No physical and/or mental examination or examinations by any physician, psychologist, psychiatrist, **[**or**]** social worker or clinical coordinator shall be ordered by the judicial authority of any child or youth denying delinquent behavior prior to the adjudication, except (1) with the agreement of the child's or youth's parent or guardian and attorney, (2) when the child or youth has executed a written statement of respon-

sibility, (3) when the judicial authority finds that there is a question of the child's or youth's competence to understand the nature of the proceedings or to participate in the defense, or a question of the child or youth having been mentally capable of unlawful intent at the time of the commission of the alleged act, or (4) where the child or youth has been detained and as an incident of detention is administered a physical examination to establish the existence of any contagious or infectious condition.

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

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

been completed by a clinical coordinator and provided to the court and parties.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book. The change to subsection (a) of this section that adds ''clinical coordinator'' to the list of professionals identified in that subsection is consistent with the change to Section 26-1 that adds such additional professional to the definitional terms listed in that section.

The change to subsection (c) of this section adds the explicit requirement that no order for the child's or youth's placement in a hospital or other institution because the mental health of the child or youth is at issue, shall be made until a written assessment or evaluation for the need for such hospitalization and evaluation has been completed by the clinical coordinator and provided to the parties.

**Sec. 31a-15. Mentally Ill Children and Youth**

No child or youth shall be committed by a judicial authority as mentally ill pursuant to General Statutes § 46b-140 until such a study has been made and a sworn report filed with the judicial authority or in lieu thereof without the sworn certificate of at least two impartial physicians, one of whom shall be a physician specializing in psychiatry, selected by the judicial authority who have personally examined the child or youth within ten days of the hearing, stating that in their opinion the child's or youth's mental condition necessitates placement in a designated hospital for mental illness. If, after such hearing, the judicial authority finds by clear and convincing evidence that the child or youth suffers from a mental disorder, as defined in General Statutes § 17a-75, is in need of hospitalization for treatment and such treatment is

available as the least restrictive alternative, the judicial authority shall make an order for commitment for a definite period not to exceed six months to a designated hospital for mental illness of children. No child or youth shall be committed as mentally deficient pursuant to General Statutes § 46b-140 except in accordance with procedures of General Statutes § 17a-274 (b), (g), and (h).

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 31a-18. Modification of Probation and Supervision**

(a) At any time during the period of probation supervision or probation supervision with residential placement, after hearing and for good cause shown, the judicial authority may modify or enlarge the conditions, whether originally imposed by the judicial authority under this section or otherwise. The judicial authority may extend the period of probation supervision or probation supervision with residential placement by not more than twelve months, for a total maximum supervision period not to exceed thirty months as deemed appropriate by the judicial authority. The judicial authority shall cause a copy of any such order to be delivered to the child or youth and to such child's or youth's parent, guardian or other person having control over such child or youth, and the child's or youth's probation officer.

(b) The child or youth, attorney, juvenile prosecutor or parent may, in the event of disagreement, in writing request the judicial authority not later than five days of the receipt thereof for a hearing on the propriety of the modification. In the absence of any request, the modification of the terms of probation may be effected by the probation officer with the approval of the supervisor and the judicial authority.

COMMENTARY: The changes to this section are for consistency with other sections of the Practice Book.

**Sec. 32a-1. Right to Counsel and To Remain Silent**

(a) At the first hearing in which the parents, **[**or**]** guardian, person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or a person named as the alleged genetic parent of the child or youth appears, the judicial authority shall advise and explain to **[**the parents or guardian of a child or youth**]** such persons their right to remain silent**[**ce**]** and right to counsel.

(b) The child or youth has the rights of confrontation and cross-examination and shall be represented by counsel in each and every phase of any and all proceedings in child protection matters, including appeals. The judicial authority before whom a juvenile matter is pending shall notify the chief public defender who shall assign an attorney to represent the child or youth.

(c) The judicial authority on its own motion or upon the motion of any party, may appoint a separate guardian ad litem for the child or youth upon a finding that such appointment is necessary to protect the best interests of the child or youth. An attorney guardian ad litem shall be appointed for a child or youth who is a parent in a termination of parental rights proceeding or any parent who is found to be incompetent by the judicial authority.

(d) The parents or guardian of the child or youth have the rights of confrontation and cross-examination and may be represented by counsel in each and every phase of any and all proceedings in child protection matters, including appeals. The judicial authority shall determine if the parents or guardian of the child or youth are eligible for

counsel. Upon a finding that such parents or guardian of the child or youth are unable to afford counsel, the judicial authority shall notify the chief public defender of such finding, and the chief public defender shall assign an attorney to provide representation. The judicial authority shall also determine whether the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or the person named as the alleged genetic parent is eligible for appointment of counsel and, upon a finding of inability to afford counsel, notify the chief public defender who shall assign an attorney to provide representation.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require the provision of an attorney to represent the child's or youth's parent or parents or guardian, or other party, the judicial authority may appoint an attorney to represent any such party and shall notify the chief public defender, who shall assign an attorney to represent any such party. For the purposes of determining eligibility for appointment of counsel, the judicial authority shall cause the parents or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the parents' or guardian's liabilities and assets, income and sources thereof, and such other information as the Public Defender Services Commission shall designate and require on forms adopted by said commission.

(f) Where under the provisions of this section, the judicial authority so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such party **[**parents, guardian or custodian**]**, including any agency vested with the legal custody of

the child or youth, the expense so incurred and paid for by the chief public defender in providing such counsel, to the extent of the[ir] party's financial ability to do so, in accordance with the rates established by the Public Defender Services Commission for compensation of counsel. Reimbursement to the appointed attorney of unrecovered costs shall be made to that attorney by the chief public defender upon the attorney's certification of his or her unrecovered expenses to the chief public defender.

(g) Notices of initial hearings on petitions shall contain a statement [of] informing the respondent['s], the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or the person named as the alleged genetic parent of their right to counsel and that if the respondent, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or the alleged genetic parent is unable to afford counsel, counsel will be appointed to represent them [respondent], that they [respondent has] have a right to refuse to make any statement and that any statement they [respondent] make[s] may be introduced in evidence against [him or her] them.

(h) Any confession, admission or statement, written or oral, made by the parent or parents, [or] guardian of the child or youth, alleged genetic parent or person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), after the filing of a petition alleging such child or youth to be neglected, abused or uncared for, shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of the right to retain counsel, and that if such

person is unable to afford counsel, counsel will be assigned to provide representation, that such person has a right to refuse to make any statement and that any statements such person makes may be introduced in evidence against such person.

COMMENTARY: This section has been revised to comply with the provisions of the Parentage Act, Public Acts 2021, No. 21-15, and for consistency with other sections of the Practice Book.

**Sec. 33a-2. Service of Summons, Petitions and Ex Parte Orders**

(a) A summons accompanying a petition alleging that a child or youth is neglected, abused or uncared for, along with the summary of facts, shall be served by the petitioner on the respondents, alleged genetic parents, and persons presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) and provided to the Office of the Attorney General at least fourteen days before the date of the initial plea hearing on the petition, which shall be held not more than forty-five days from the date of filing the petition.

(b) A summons accompanying a petition for termination of parental rights, along with the summary of facts, shall be served by the petitioner on the respondents, alleged genetic parents, and persons presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) and provided to the Office of the Attorney General at least ten days prior to the date of the initial plea hearing on the petition, which shall be held not more than thirty days after the filing of the petition, except in the case of a petition for termination of parental rights based on consent, which shall be held not more than twenty days after the filing of the petition.

(c) A summons accompanying simultaneously filed coterminous petitions, along with the summary of facts, shall be served by the

petitioner on the respondents, alleged genetic parents, and persons presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) and provided to the Office of the Attorney General at least ten days prior to the date of the initial plea hearing on the petition, which shall be held not more than thirty days after the filing of the petitions, except in the case of a petition for termination of parental rights based on consent, which shall be held not more than twenty days after the filing of the petition.

(d) A summons accompanying any petition filed with an application for order of temporary custody shall be served by the petitioner on the respondents, alleged genetic parents, and persons presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) and provided to the Office of the Attorney General as soon as practicable after the issuance of any ex parte order or order to appear, along with such order, any sworn statements supporting the order, the summary of facts, the specific steps provided by the judicial authority, and the notice required by Section 33a-6.

(e) Whenever the Commissioner of the Department of Children and Families obtains an ex parte order of temporary custody or an order to appear and show cause from the judicial authority, he or she shall provide the clerk with a sealed envelope marked "Attention: Counsel for Child(ren)" containing the following information: the name, phone number and e-mail of the investigation social worker; the name, phone number and e-mail of the treatment supervisor or social worker, if known; and the child(ren)'s placement or home address and phone number, and name of a placement contact person. The clerk shall ensure that counsel assigned to the child or youth is provided with

said envelope at the time his or her appearance is filed. In the event the placement information changes prior to the preliminary hearing, the Commissioner of the Department of Children and Families shall notify counsel for the child <u>or youth</u> immediately.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 33a-3. Venue**

All child protection petitions shall be filed within the juvenile matters district where the child or youth resided at the time of the filing of the petition, but any child or youth born in any hospital or institution where the <u>birth parent</u> **[**mother**]** is confined at the time of birth shall be deemed to have residence in the district wherein such child's or youth's <u>birth parent</u> **[**mother**]** was living at the time of <u>the</u> **[**her**]** admission to such hospital or institution. When placement of a child or youth has been effected prior to filing of a petition, venue shall be in the district wherein the custodial parent is living at the time of the filing of the petition.

COMMENTARY: This section has been revised to conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15.

**Sec. 33a-4. Identity [or] <u>of Alleged Genetic Parent Unknown;</u> Location of Respondent<u>, Person Presumed To Be the Parent Pursuant to General Statutes § 46b-488 (a) (3) or Alleged Genetic Parent</u> Unknown**

(a) If the identity **[**or present location of a respondent**]** <u>of an alleged genetic parent</u> is unknown when a petition is filed, an affidavit shall be attached reciting the efforts to identify **[**and locate that respondent**]**

that alleged genetic parent. The judicial authority may, in its discretion, require [N]notice by publication to unidentified alleged genetic parents [persons shall be required] in any petition for termination of parental rights. Such notice shall comply with General Statutes § 45a-716.

(b) If the present location of a respondent, a person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or an alleged genetic parent is unknown when a petition is filed, an affidavit shall be attached reciting the efforts to locate that person. Notice by publication to absent respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or alleged genetic parents shall be required in any petition for termination of parental rights in accordance with General Statutes § 45a-716.

[(b)] (c) Subject to Section 32a-1 of these rules, the judicial authority may notify the chief public defender to assign counsel for [an unidentified parent or an] absent respondents, person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or alleged genetic parent who has received only constructive notice of termination of parental rights proceedings, for the limited purposes of conducting a reasonable search for the [unidentified or] absent respondents, person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or alleged genetic parents and reporting to the judicial authority before any adjudication.

COMMENTARY: This section has been revised to conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15.

## Sec. 33a-6. Order of Temporary Custody; Ex Parte Orders and Orders To Appear

(a) If the judicial authority finds, based upon the specific allegations of the petition and other verified affirmations of fact provided by the applicant, that there is reasonable cause to believe that: (1) the child or youth is suffering from serious physical illness or serious physical injury or is in immediate physical danger from his or her surroundings and (2) that as a result of said conditions, the child's or youth's safety is endangered and immediate removal from such surroundings is necessary to ensure the child's or youth's safety, the judicial authority shall, upon proper application at the time of filing of the petition or at any time subsequent thereto, either (A) issue an order to the respondents or other persons having responsibility for the care of the child or youth, including but not limited to persons named as the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or the alleged genetic parent, to appear at such time as the judicial authority may designate to determine whether the judicial authority should vest in some suitable agency or person the child's or youth's temporary care and custody pending disposition of the petition, or (B) issue an order ex parte vesting in some suitable agency or person the child's or youth's temporary care and custody.

(b) A preliminary hearing on any ex parte **[**custody**]** order of temporary custody or order to appear issued by the judicial authority shall be held as soon as practicable but not later than ten days after the issuance of such order.

(c) If the application is filed subsequent to the filing of the petition, a motion to amend the petition or to modify protective supervision

shall be filed no later than the next business date before such preliminary hearing.

(d) Upon issuance of an ex parte order of temporary custody or order to appear, the judicial authority shall provide to the Commissioner of the Department of Children and Families and the respondents specific steps necessary for each to take for the respondents to retain or regain custody of the child or youth.

(e) An ex parte order of temporary custody or order to appear shall be accompanied by a conspicuous notice to the respondents and other persons entitled to notice, including but not limited to persons named as the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or the alleged genetic parent, written in clear and simple language containing at least the following information: (i) That the order contains allegations that conditions in the home have endangered the safety and welfare of the child or youth; (ii) that a hearing will be held on the date on the form; (iii) that the hearing is the opportunity to present the respondents' position concerning the alleged facts; (iv) that the respondent, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and the person named as the alleged genetic parent have**[s]** the right to remain silent; (v) that an attorney will be appointed for respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) and the alleged genetic parent who cannot afford an attorney by the chief public defender; (vi) that **[**such**]** respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and the alleged genetic parent may apply for state paid representation by

going in person to the court address on the form and are advised to go as soon as possible in order for the attorney to prepare for the hearing; (vii) if such respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and alleged genetic parents have any questions concerning the case or appointment of counsel, **[**any such respondent is**]** they are advised to go to the court, or contact the clerk's office, or contact the chief public defender as soon as possible, and (viii) that such respondents **[**parents,**]** or **[**a**]** persons having responsibility for the care and custody of the child or youth**[**,**]** may request the Commissioner of Children and Families to investigate placing the child or youth with a person related to the child or youth by blood, **[**or**]** marriage or law who might serve as a licensed foster parent or temporary custodian for such child or youth.

(f) Upon application for state paid representation, the judicial authority shall promptly determine eligibility and, if the respondent, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or person named as the alleged genetic parent is eligible, promptly notify the chief public defender, who shall assign an attorney to provide representation. In the absence of such a request prior to the preliminary hearing, the chief public defender shall ensure that standby counsel is available at such hearing to assist and/or represent the respondents or other persons found eligible by the judicial authority.

COMMENTARY: This section has been revised to conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15, and for consistency with other sections of the Practice Book.

**Sec. 33a-7. Preliminary Order of Temporary Custody or First Hearing; Actions by Judicial Authority**

(a) At the preliminary hearing on the order of temporary custody or order to appear, or at the first hearing on a petition for neglect, uncared for, dependency, or termination of parental rights, the judicial authority shall:

(1) first determine whether the necessary parties are present and that the rules governing service on or notice to nonappearing parties, and notice to persons named as the alleged genetic parent, grandparents, foster parents, relative caregivers, **[**and**]** pre-adoptive parents, and any other person entitled to notice of the proceedings, as applicable, have been complied with, and should note these facts for the record, and may proceed with respect to the parties who (i) are present and have been properly served; (ii) are present and waive any defects in service; and (iii) are not present, but have been properly served. As to any party or person who has not been properly served, the judicial authority may continue the proceedings with respect to such party or person for a reasonable period of time for service to be made and confirmed;

(2) inform the respondents of the allegations contained in all petitions and applications that are the subject of the hearing;

(3) inform the respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and persons named as the alleged genetic parent of their right to remain silent;

(4) ensure that an attorney, and where appropriate, a separate guardian ad litem, has been assigned to represent the child or youth by the chief public defender, in accordance with General Statutes §§ 46b-129a (2), 46b-136, 51-296a and Section 32a-1 of these rules;

(5) advise the respondents, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and the alleged genetic parent of their right to counsel and their right to have counsel assigned if they are unable to afford representation, determine eligibility for state paid representation and notify the chief public defender to assign an attorney to represent any respondent, the person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3), and the alleged genetic parent who is unable to afford representation, as determined by the judicial authority;

(6) advise the respondents of the right to a hearing on the petitions and applications, to be held not later than ten days after the date of the preliminary hearing if the hearing is pursuant to an ex parte order of temporary custody or an order to appear;

(7) notwithstanding any prior statements acknowledging responsibility, inquire of the custodial respondent in neglect, uncared for and dependency matters, and of all respondents in termination matters, whether the allegations of the petition are presently admitted or denied;

(8) make any interim orders, including visitation, that the judicial authority determines are in the best interests of the child or youth, and order specific steps that the commissioner and the respondents shall take for the respondents to regain or to retain custody of the child or youth;

(9) take steps to determine the identity of the alleged genetic parent [father] of the child or youth, including, if necessary, inquiring of the birth parent [mother] of the child or youth, under oath, as to the identity and address of any person who might be the genetic parent [father] of the child or youth and ordering genetic testing, if necessary and appropriate, and order service of the amended petition citing in the

alleged genetic parent [putative father] and notice of the hearing date, if any, to be made upon such person [him];

(10) if the person named as the alleged genetic parent [putative father] appears[,] and admits that such person [he] is the parent [biological father], provide such person [him] and the birth parent [mother] with the notices which comply with General Statutes § 17b-27 and provide them with the opportunity to sign an [paternity] acknowledgment of parentage [and affirmation] on forms which comply with General Statutes § 17b-27, which documents shall be executed and filed in accordance with General Statutes Chapter 815y [§ 46b-172] and a copy delivered to clerk of the Superior Court for juvenile matters. The clerk of the Superior Court for juvenile matters shall send the original acknowledgment of parentage to the Department of Public Health for filing in the parentage registry maintained under General Statutes § 19a-42a, and shall maintain a copy of the acknowledgment of parentage in the court file;

(11) in the event that the person named as an alleged genetic parent [putative father] appears and denies that such person [he] is the parent [biological father] of the child or youth, [advise him that he may have no further standing in any proceeding concerning the child or youth, and either] order genetic testing to determine parentage in accordance with the Connecticut Parentage Act. The clerk of the court shall send a certified copy of any judgment adjudicating parentage to the Department of Public Health for filing in the parentage registry maintained under General Statutes § 19a-42a. If the results of the genetic tests indicate that the person named as the alleged genetic parent is not

the genetic parent of the child or youth, the court shall enter a judgment that such person is not the genetic parent, and the court shall remove such person from the case and afford such person no further standing in the case or in any subsequent proceeding regarding the child or youth [paternity or direct him to execute a written denial of paternity on a form promulgated by the Office of the Chief Court Administrator. Upon execution of such a form by the putative father, the judicial authority may remove him from the case and afford him no further standing in the case or in any subsequent proceeding regarding the child or youth until such time as paternity is established by formal acknowledgment or adjudication in a court of competent jurisdiction]; and

(12) identify any person or persons related to the child or youth by blood or marriage or law residing in this state or out of state who might serve as licensed foster parents or temporary custodians, and order the Commissioner of the Department of Children and Families to investigate and determine the appropriateness of placement of the child or youth with such relative or relatives pursuant to General Statutes § 46b-129 (c) and provide a written report to the court no later than thirty days from the date of the preliminary hearing and notify all counsel of record or set a reasonable date for such a report if a relative lives outside the state.

(b) At the preliminary hearing on the order of temporary custody or order to appear, the judicial authority may provide parties an opportunity to present argument with regard to the sufficiency of the sworn statements.

(c) If any respondent fails, after proper service, to appear at the preliminary hearing, the judicial authority may enter or sustain an order of temporary custody.

(d) Upon request, or upon its own motion, the judicial authority shall schedule a hearing on the order for temporary custody or the order to appear to be held as soon as practicable but not later than ten days after the date of the preliminary hearing. Such hearing shall be held on consecutive days except for compelling circumstances or at the request of the respondents.

(e) Subject to the requirements of Section 33a-7 (a) (6), upon motion of any party or on its own motion, the judicial authority may consolidate the hearing, on the order of temporary custody or order to appear with the adjudicatory phase of the trial on the underlying neglect or uncared for petition. At a consolidated order of temporary custody and neglect or uncared for adjudication hearing, the judicial authority shall determine the outcome of the order of temporary custody based upon whether or not continued removal is necessary to ensure the child's or youth's safety, irrespective of its findings on whether there is sufficient evidence to support an adjudication of neglect or uncared for. Nothing in this subsection prohibits the judicial authority from proceeding to disposition of the underlying petition immediately after such consolidated hearing if the social study has been filed and the parties had previously agreed to sustain the order of temporary custody and waived the ten day hearing or the parties should reasonably be ready to proceed.

COMMENTARY: This section has been revised to conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15, and for consistency with other sections of the Practice Book.

**Sec. 34a-6. Pleadings Allowed and Their Order**

The order of pleadings shall be as follows:

(1) The petition**[.]**;

(2) The respondent's or child's or youth's motion to dismiss[.];

(3) The respondent's or child's or youth's motion to strike.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 34a-9. Motion To Dismiss**

Any respondent or child or youth, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within fifteen days of the plea date stated on the petition.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 34a-13. Further Pleading by Respondent or Child or Youth**

If a motion to dismiss is denied with respect to any jurisdictional issue, the respondent or child or youth may plead further without waiving the right to contest jurisdiction further.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 34a-14. Response to Summary of Facts**

In addition to the entry of a pro forma plea of denial, a parent, legal guardian, [or] child or youth may, within thirty days of the plea date, file a written response to the summary of facts attached to the petition specifying that certain allegations in said summary of facts are irrelevant, immaterial, false or otherwise improper.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 34a-23. Motion for Emergency Relief**

(a) Notwithstanding the above provisions, any party may file a motion for emergency relief, seeking an order directed to the parents, [includ-

ing any person who acknowledged before a judicial authority paternity of a child born out of wedlock,] guardians, custodians or other adult persons owing some legal duty to the child or youth, as deemed necessary or appropriate to secure the welfare, protection, proper care and suitable support of a child or youth before this court for the protection of the child or youth. Such orders include, but are not limited to, an order for access to the family home, an order seeking a medical exam or mental health exam or treatment of the child or youth, an order to remedy a dangerous condition in the family or foster home, an order to provide or to accept and cooperate with certain services, or an order prohibiting the removal of the child or youth from the state or the home. Such motions may be heard at the next short calendar; however, if the exigencies of the situation demand, the judicial authority may order immediate ex parte relief, pending an expeditious hearing.

(b) No motion for emergency relief shall be granted without notice to each party unless the applicant certifies one of the following to the court in writing:

(1) facts showing that within a reasonable time prior to presenting the motion the moving party gave notice to all other parties of the time when and the place where the motion would be presented and provided a copy of the motion; or

(2) the moving party in good faith attempted but was unable to give notice to the other parties, specifying the efforts made to contact such parties; or

(3) facts establishing good cause why the moving party should not be required to give notice to other parties.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-4. Motions To Intervene**

(a) Interventions by any person related to the child or youth by blood, **[**or**]** marriage or law for temporary custody or guardianship shall be governed by General Statutes § 46b-129 (c) or (d). All motions for intervention shall state with specificity the movant's interest and relief requested.

(b) Upon motion of any sibling of any child or youth committed to the Commissioner of the Department of Children and Families pursuant to General Statutes § 46b-129, such sibling shall have the right to be heard concerning visitation with, and placement of, any such child or youth. In awarding any visitation or modifying any placement, the judicial authority shall be guided by the best interests of all siblings affected by such determination.

(c) Other persons unrelated to the child or youth by blood, **[**or**]** marriage**[**,**]** or law, or persons related to the child or youth by blood, **[**or**]** marriage or law who are not seeking to serve as a placement, temporary custodian or guardian of the child or youth may move to intervene in the dispositional phase of the case, and the judicial authority may grant said motion if it determines that such intervention is in the best interests of the child or youth or in the interests of justice.

(d) In making a determination upon a motion to intervene, the judicial authority may consider: the timeliness of the motion as judged by the circumstances of the case; whether the movant has a direct and immediate interest in the case; whether the movant's interest is not adequately represented by existing parties; whether the intervention may cause delay in the proceedings or other prejudice to the existing parties; the necessity for or value of the intervention in terms of resolv-

ing the controversy before the judicial authority; and the best interests of the child or youth.

(e) Any intervenor shall appear in person, with or without counsel, and shall not be entitled to court-appointed counsel or the assignment of counsel by the chief public defender except as provided in General Statutes § 46b-136.

(f) The judicial authority, may, on motion of any party or on its own motion, after notice and a hearing, terminate any person's intervenor status if such person's participation in the case is no longer warranted or necessary. The judicial authority may determine if good cause exists to permit the intervenor to continue to participate in future proceedings as a party and what, if any further actions, the intervenor is required to take.

COMMENTARY: The revisions to this section conform to the provisions of General Statutes § 46b-129 (c) and (d) and for consistency with other sections of the Practice Book.

**Sec. 35a-8. Burden of Proceeding**

(a) The petitioner shall be prepared to substantiate the allegations of the petition. All parties except the child or youth shall be present at trial unless excused for good cause shown. Failure of any party to appear in person or by their statutorily permitted designee may result in a default or nonsuit for failure to appear for trial, as the case may be, and evidence may be introduced and judgment rendered.

(b) If a parent, guardian, person presumed to be the parent pursuant to General Statutes § 46b-488 (a) (3) or a person named as the alleged genetic parent fails to appear at the initial hearing and no military affidavit has been filed, the judicial authority shall continue the proceedings prior to entering a default for failure to appear until such time as

the military affidavit is filed**[**, provided if the identity of the parent, after reasonable search, cannot be determined, then default may enter and no military affidavit is required**]**.

(c) The clerk shall give notice by mail to the defaulted party and the party's attorney of the default and of any <u>other</u> action taken by the judicial authority. The clerk shall note the date that such notice is given or mailed.

COMMENTARY: This section has been revised to conform to the provisions of the Parentage Act, Public Acts 2021, No. 21-15, and for consistency with other sections of the Practice Book.

**Sec. 35a-12. Protective Supervision—Conditions, Modification and Termination**

(a) When protective supervision is ordered, the judicial authority will set forth any conditions of said supervision including duration, specific steps and review dates.

(b) A protective supervision order shall be scheduled for an in court review and reviewed by the judicial authority at least thirty days prior to its expiration. At said review, an updated social study shall be provided to the judicial authority.

(c) If an extension of protective supervision is being sought by the Commissioner of the Department of Children and Families or any other party in interest, including counsel for the minor child or youth, then a written motion for the same shall be filed not less than thirty days prior to such expiration. Such motion shall be heard either at the in court review of protective supervision if it is held within thirty days of such expiration or at a hearing to be held within ten days after the filing of such motion. For good cause shown and under extenuating circumstances, such written motion may be filed in a period of less

than thirty days prior to the expiration of the protective supervision and the same shall be docketed accordingly. The motion shall set forth the reason(s) for the extension of the protective supervision and the period of the extension being sought. If the judicial authority orders such extension of protective supervision, the extension order shall be reviewed by the judicial authority at least thirty days prior to its expiration.

(d) Parental or guardian noncompliance with the order of protective supervision shall be a ground for a motion to modify the disposition. Upon finding that the best interests of the child or youth so warrant, the judicial authority, on its own motion or acting on a motion of any party and after notice is given and a hearing has been held, may modify a previously entered disposition of protective supervision in accordance with the applicable General Statutes.

(e) Any party who seeks to have an order of protective supervision terminate prior to its scheduled expiration date shall file a written motion to terminate the order. The motion shall set forth the reason or reasons why it is in the child's or youth's best interests for protective supervision to terminate early. If termination of protective supervision is sought on the day of a scheduled in court review hearing, such motion may be filed that day. All parties shall be afforded reasonable time to review the written motion and accompanying status reports or other relevant documents. Upon finding that the best interests of the child or youth so warrant, the judicial authority, acting on such motion and after notice is given and a hearing has been held, may terminate an order of protective supervision prior to its scheduled expiration date.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-12A. Motions for Transfer of Guardianship**

(a) Motions to transfer guardianship are dispositional in nature, based on the prior adjudication.

(b) In cases in which a motion for transfer of guardianship seeks to vest guardianship of a child or youth in any relative who is the licensed foster parent for such child or youth, or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the motion, the moving party has the burden of proof that the proposed guardian is suitable and worthy and that transfer of guardianship is in the best interests of the child or youth. In such cases, there shall be a rebuttable presumption that the award of legal guardianship to that relative shall be in the best interests of the child or youth and that such relative is a suitable and worthy person to assume legal guardianship. The presumption may be rebutted by a preponderance of the evidence that an award of legal guardianship to such relative would not be in the child's or youth's best interests and such relative is not a suitable and worthy person.

(c) In cases in which a motion for transfer of guardianship, if granted, would require the removal of a child or youth from any relative who is the licensed foster parent for such child or youth, or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the motion, the moving party has the initial burden of proof that an award of legal guardianship to, or an adoption by, such relative would not be in the child's or youth's best interests and that such relative is not a suitable and worthy person. If this burden is met, the moving party then has the burden of proof that the movant's proposed guardian is suitable and worthy and that transfer of guardianship to that proposed guardian is in the best interests of the child or youth.

(d) In all other cases, the moving party has the burden of proof that the proposed guardian is suitable and worthy and that transfer of guardianship is in the best interests of the child or youth.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-14. Motions for Review of Permanency Plan**

(a) Motions for review of the permanency plan shall be filed nine months after the placement of the child or youth in the custody of the Commissioner of the Department of Children and Families pursuant to a voluntary placement agreement, or removal of a child or youth pursuant to General Statutes § 17a-101g or an order of a court of competent jurisdiction, whichever is earlier. At the date custody is vested by order of a court of competent jurisdiction, or if no order of temporary custody is issued, at the date when commitment is ordered, the judicial authority shall set a date by which the subsequent motion for review of the permanency plan shall be filed. The Commissioner of the Department of Children and Families shall propose a permanency plan that conforms to the statutory requirements and shall provide a social study to support said plan. Nothing in this section shall preclude any party from filing a motion for revocation of commitment separate from a motion for review of permanency plan pursuant to General Statutes § 46b-129 (m) and subject to Section 35a-14A.

(b) At the time of the filing of a motion for review of permanency plan pursuant to subsection (a), the Commissioner of the Department of Children and Families shall also request a finding that it has made reasonable efforts to achieve the goal of the existing plan. The social study filed pursuant to subsection (a) shall include information indicating what efforts the commissioner has taken to achieve the goal of the existing plan.

(c) Once a motion for review of the permanency plan and requested findings regarding efforts to achieve the goal of the existing plan have been filed, the clerk of the court shall set a hearing not later than ninety days thereafter. The judicial authority shall provide notice to the child or youth, and the parent or guardian of such child or youth and any other party found entitled to such notice of the time and place of the court hearing on any such motion not less than fourteen days prior to such hearing. Any party who is in opposition to any such motion shall file a written objection and state with specificity the reasons therefor within thirty days after the filing of the Commissioner of the Department of Children and Families' motion for review of permanency plan and the objection shall be considered at the hearing. The judicial authority shall hold an evidentiary hearing in connection with any contested motion for review of the permanency plan. If there is no objection or motion for revocation filed, then the motion may be granted by the judicial authority at the date of said hearing.

(d) Whether to approve the permanency plan and to find that reasonable efforts to achieve the goal of the existing plan have been made are dispositional questions, based on the prior adjudication, and the judicial authority shall determine whether it is in the best interests of the child or youth to approve the permanency plan and to find that reasonable efforts to achieve the goal of the existing plan have been made upon a fair preponderance of the evidence. The Commissioner of the Department of Children and Families shall have the burden of proving that the proposed permanency plan is in the best interests of the child or youth and that it has made reasonable efforts to achieve the goal of the existing plan.

(e) At each hearing on a motion for review of permanency plan, the judicial authority shall (1) ask the child or youth about **[**his or her**]** <u>their</u> desired permanency outcome or if the child or youth is unavailable to appear at such hearing, require the attorney for the child or youth to consult with the child or youth regarding the child's or youth's desired permanency outcome and report the same to the court, (2) review the status of the child or youth, (3) review the progress being made to implement the permanency plan, (4) determine a timetable for attaining the permanency plan, (5) determine the services to be provided to the parent <u>or guardian</u> if the court approves a permanency plan of reunification and the timetable for such services, and (6) determine whether the Commissioner of the Department of Children and Families has made reasonable efforts to achieve the goal of the existing permanency plan. The judicial authority shall also determine whether the proposed goal of the permanency plan as set forth in General Statutes § 46b-129 (k) (2) is in the best interests of the child or youth by a fair preponderance of the evidence, taking into consideration the child's or youth's need for permanency. The child's or youth's health and safety shall be of paramount concern in formulating such plan. If a permanency plan is not approved by the judicial authority, it shall order the filing of a revised plan and set a hearing to review said revised plan within sixty days.

(f) As long as a child or youth remains in the custody of the Commissioner of the Department of Children and Families, the commissioner shall file a motion for review of permanency plan and for a finding regarding reasonable efforts to achieve the goal of the existing plan nine months after the prior permanency plan hearing. No later than twelve months after the prior permanency plan hearing, the judicial

authority shall hold a subsequent permanency review hearing in accordance with this section.

(g) Whenever an approved permanency plan needs revision, the Commissioner of the Department of Children and Families shall file a motion for review of the revised permanency plan. The commissioner shall not be precluded from initiating a proceeding in the best interests of the child or youth considering the needs for safety and permanency.

(h) Where a petition for termination of parental rights is granted, the guardian or statutory parent of the child or youth shall report to the judicial authority not later than thirty days after the date the judgment is entered on a permanency plan and on the status of the child or youth. At least every three months thereafter, such guardian or statutory parent shall make a report to the judicial authority on the implementation of the plan, or earlier if the plan changes before the elapse of three months. The judicial authority may convene a hearing upon the filing of a report and shall convene and conduct a permanency hearing for the purpose of reviewing the permanency plan for the child or youth no more than twelve months from the date judgment is entered or from the date of the last permanency hearing held in accordance with General Statutes § 46b-129 (k), whichever is earlier, and at least once a year thereafter while the child or youth remains in the custody of the Commissioner of the Department of Children and Families. At each court hearing, the judicial authority shall make factual findings whether [or not] reasonable efforts to achieve the permanency plan or promote adoption have been made.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-14A. Revocation of Commitment**

Where a child or youth is committed to the custody of the Commissioner of the Department of Children and Families, the commissioner, a parent or the child's or youth's attorney may file a motion seeking revocation of commitment. The judicial authority may revoke commitment if a cause for commitment no longer exists and it is in the best interests of the child or youth. Whether to revoke the commitment is a dispositional question, based on the prior adjudication, and the judicial authority shall determine whether to revoke the commitment upon a fair preponderance of the evidence. The party seeking revocation of commitment has the burden of proof that no cause for commitment exists. If the burden is met, the party opposing the revocation has the burden of proof that revocation would not be in the best interests of the child or youth. If a motion for revocation is denied, a new motion shall not be filed by the movant until at least six months have elapsed from the date of the filing of the prior motion unless waived by the judicial authority.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-18. Opening Default**

Any order or decree entered through a default may be set aside within four months succeeding the date of such entry of the order or decree upon the written motion of any party or person prejudiced thereby, showing reasonable cause, or that a defense in whole or in part existed at the time of the rendition of such order or of such decree, and that the party so defaulted was prevented by mistake, accident or other reasonable cause from prosecuting or appearing to make the same, except that no such order or decree shall be set aside if a final

decree of adoption regarding the child or youth has been issued prior to the filing of any such motion. Such written motion shall be verified by the oath of the complainant and shall state in general terms the nature of the claim or defense and shall particularly set forth the reason why the party failed to appear. The judicial authority shall order reasonable notice of the pendency of such motion to be given to all parties to the action and also, in the case of a motion to set aside a judgment terminating parental rights, to any person who has legal custody of the child or youth or who has physical custody of the child or youth pursuant to an agreement, including an agreement with the Department of Children and Families or a licensed child-placing agency. The judicial authority may enjoin enforcement of such order or decree until the decision upon such written motion, unless said action shall prejudice or place the child's or youth's health, safety or welfare in jeopardy. The initial hearing on said motion shall be held as a priority matter but no later than fifteen days after the same has been filed with the clerk, unless otherwise agreed to by the parties and sanctioned by the judicial authority. All hearings on motions to set aside a judgment terminating parental rights shall be conducted in accordance with the provisions of General Statutes § 45a-719. In the event that any motion is granted, the matter shall be scheduled for an immediate pretrial or case status conference within fourteen days thereof, and failing a resolution at that time, then the matter shall be scheduled for a trial as expeditiously as possible.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-19. Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights**

(a) When a contested application for removal of parent as guardian or petition for termination of parental rights or application to commit a child or youth to a hospital for the mentally ill has been transferred from the Probate Court to the Superior Court, the Superior Court clerk shall transmit to the Probate Court from which the transfer was made a copy of any orders or decrees thereafter rendered, including orders regarding reinstatement pursuant to General Statutes § 45a- 611 and visitation pursuant to General Statutes § 45a-612, and a copy of any appeal of a Superior Court decision in the matter.

(b) The date of receipt by the Superior Court of a transferred petition shall be the filing date for determining initial hearing dates in the Superior Court. The date of receipt by the Superior Court of any Probate Court issued ex parte order of temporary custody not heard by that court shall be the issuance date in the Superior Court.

(c) Any appearance filed for any party in the Probate Court shall continue in the Superior Court for juvenile matters unless (1) a motion to withdraw is filed in the Probate Court within five days of the filing of the motion to transfer, and the motion to withdraw is granted by the Probate Court, (2) a motion to withdraw is filed by such party's counsel and granted by the Superior Court for juvenile matters, or (3) another counsel files an ''in place of'' appearance on behalf of the party. If the party represented is indigent or is the child or youth subject to the proceedings, new counsel shall be assigned from the list of public defender services assigned counsel and shall be paid by the public defender services commission. The Superior Court for juvenile

matters may request that the Division of Public Defender Services contract with probate counsel for representation if continued representation would be in the best interest of the client. Counsel for indigent parties or minor children appointed by the Probate Court who remain on the case in Superior Court for juvenile matters shall be paid by the Public Defender Services Commission according to its policies at the rate of pay established by the commission.

(d) (1) The Superior Court clerk shall notify appearing parties in applications for removal of guardian by mail of the date of the initial hearing which shall be held not more than thirty days from the date of receipt of the transferred application. Not less than ten days before the initial hearing, the Superior Court clerk shall cause a copy of the transfer order and probate petition for removal of guardian and an advisement of rights notice to be served on any nonappearing party or any party not served within the last twelve months with an accompanying order of notice and summons to appear at an initial hearing.

(2) Not less than ten days before the date of the initial hearing, the Superior Court clerk shall cause a copy of the transfer order and probate petition for termination of parental rights and an advisement of rights notice to be served on all parties, regardless of prior service, with an accompanying order of notice and summons to appear at an initial hearing which shall be held not more than thirty days from the date of receipt of the petition except in the case of a petition for termination of parental rights based on consent which shall be held not more than twenty days after the filing of the petition.

(3) The Superior Court clerk shall mail notice of the initial hearing date for all transferred petitions to all counsel of record and to the Commissioner of the Department of Children and Families or to any other agency which has been ordered by the Probate Court to conduct

an investigation pursuant to General Statutes § 45a-619. The Commissioner of the Department of Children and Families or any other investigating agency will be notified of the need to have a representative present at the initial hearing.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

**Sec. 35a-22. Where Presence of Person May Be by Means of an Interactive Audiovisual Device**

(a) The appearance of a person for any proceeding set forth in subsection (b) of this section may, in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such audiovisual device must operate so that such person and **[**his or her**]** their attorney, if any, and the judicial authority if the proceeding is in court, can see and communicate with each other simultaneously. In addition, a procedure by which such person and **[**his or her**]** their attorney can confer in private must be provided. Nothing contained in this section shall be construed to establish a right for any person to be heard or to appear by means of an interactive audiovisual device or to require the Judicial Branch to pay for such person's appearance by means of an interactive audiovisual device.

(b) A person may appear by means of an interactive audiovisual device in juvenile matters in the civil session, as defined by General Statutes § 46b-121 (a), in the following proceedings or under the following circumstances:

(1) A party or a party's representative in case status and case management conferences;

(2) If a parent or guardian is incarcerated in this state, **[**he or she**]** they may participate in plea hearings, judicial pretrials, order of temporary

custody and termination of parental rights (TPR) case management conferences, reviews of protective supervision, permanency plan hearings, case status conferences, preliminary order of temporary custody hearings, neglect plea and disposition by agreement, neglect trials, TPR plea hearings, canvass of consents to TPR, contested transfer of guardianship hearings, motions to revoke commitment, emancipation petitions, and motions to reinstate guardian;

(3) If a parent or guardian is incarcerated in a federal correctional facility or another state's correctional facility, [he or she] they may participate in all matters set forth in subdivision (2) above and in contested hearings including, but not limited to, temporary custody hearings, neglect or uncared for proceedings or TPR trials;

(4) A foster parent, prospective adoptive parent or relative caregiver may appear and be heard on the best interests of the child or youth pursuant to General Statutes § 46b-129 (o);

(5) A sibling of any child or youth committed to the Department of Children and Families, upon motion, may appear and be heard concerning visitation with, and placement of, any such child or youth pursuant to General Statutes § 46b-129 (p);

(6) A witness may testify in any proceeding in the discretion of the judicial authority.

(c) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and self-represented parties in advance of the proceeding.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

## Sec. 35a-23. Child's or Youth's Hearsay Statement; Residual Exception

(a) A party who seeks the admission of a hearsay statement of a child or youth pursuant to the residual exception to the hearsay rule, based upon psychological unavailability, shall provide a written notice within a reasonable time before the trial.

(b) A notice pursuant to subsection (a) shall be filed with the court and shall be served on all counsel of record and self-represented parties when appropriate, in accordance with Section 10-13. The notice shall identify the proffered statement, the basis for the psychological unavailability claim and shall be filed within a reasonable time before the trial.

(c) A party who objects to the introduction of the child's or youth's hearsay statement and challenges the representations contained in the notice filed pursuant to subsection (b) of this section, shall file a written objection with the court within a reasonable time before the trial, stating the reasons therefor.

(d) The judicial authority shall hold an evidentiary hearing to determine the admissibility of the child's or youth's hearsay statement in a manner that does not unduly delay resolution of the proceedings. The party seeking to introduce the statement shall have the burden of proving the child's or youth's psychological unavailability; specifically, that the child or youth will suffer serious emotional or mental harm if required to testify.

COMMENTARY: This section has been revised for consistency with other sections of the Practice Book.

# AMENDMENTS TO THE CRIMINAL RULES

## (NEW) Sec. 40-13B. Notice by Prosecuting Authority of Intention To Use Prior Uncharged Sexual Misconduct Involving a Person Other Than the Victim in Sexual Assault Cases

If the prosecuting authority intends to introduce evidence of prior uncharged sexual misconduct pursuant to § 4-5 (b) of the Connecticut Code of Evidence involving a person other than the victim(s) in a sexual assault prosecution, the state shall provide notice to the defendant of its intent to use such evidence as soon as practicable, but in no event less than fifteen days before trial or at such later time as the judicial authority may direct for good cause. The state shall file a copy of such notice with the clerk.

Along with such notice, the prosecuting authority shall provide to the defendant a disclosure which identifies each proposed witness by name and date of birth and shall include all such witnesses' statements, if any, and a summary of their expected testimony. Any proposed witness whose identity is subject to the protections of the confidentiality provisions of General Statutes § 54-86e shall be identified in accordance with the statute.

The judicial authority may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate. When late notice is provided upon a finding of good cause, the court should implement measures to ensure that the defendant is not prejudiced by the late disclosure.

At trial, the state shall make an offer of proof outside the presence of the jury of each such witness's proposed trial testimony. A variance

between the offer of proof and the state's disclosure shall not serve as the basis for excluding such testimony if the court, in its discretion, determines that such variance is immaterial or has not unfairly surprised the defense.

COMMENTARY: This new rule requires the state to provide detailed pretrial notice of its intent to introduce evidence of prior uncharged sexual misconduct, bringing Connecticut into alignment with the federal rules and several states that allow such evidence.