

**From:** Gold, David  
**Sent:** Monday, December 7, 2020 2:26 PM  
**To:** Rules Committee; Del Ciampo, Joseph  
**Cc:** Casaubon, Katharine  
**Subject:** FW: hospital arraignments  
**Attachments:** Revised Proposal for Arraignment without Defendant Presence\_12-7-2020.pdf

Dear Attorney Del Ciampo,

Attached please find proposed revisions to the Revised Proposal regarding Arraignments without the Defendant, RC # 2019-001 g. The proposed revisions not only address the concerns that Attorney Christine Rapillo, Chief Public Defender, raised with respect to the Revised Proposal, but also address the expanding capability of the courts to conduct proceedings remotely in the wake of the COVID-19 pandemic. They also make other minor clarifying revisions to the Revised Proposal. In particular, the attached proposed revisions include:

- A change to the terminology used throughout the proposal from “waiving the defendant’s presence at arraignment” to “arraigning the defendant remotely or without his or her presence,” so as to make clear that the alternative arraignment proceedings allowable in Section 37-1 are by court action, rather than by the defendant affirmatively waiving his or her constitutional right to be present at arraignment;
- In Section 37-1:
  - o A change new subsection (c) to incorporate a “good cause” requirement before a court can arraign a hospitalized or otherwise incapacitated defendant pursuant to the alternative proceedings provided for in that subsection;
  - o The addition, in new subsection (c), of a requirement to arraign hospitalized or otherwise incapacitated defendants remotely when feasible, rather than requiring all arraignments of hospitalized or otherwise incapacitated defendants pursuant to new subsection (c) be conducted without the presence of the defendant;
  - o The addition of a new subsection (d) clarifying the procedure and effect of arraignments conducted pursuant to new subsection (c);
  - o The addition of a new subsection (e) requiring defendants who have been arraigned pursuant to new subsection (c) and who remain in custody, to be presented to court immediately after their medical discharge; and
  - o A change to the commentary to remove content rendered unnecessary because of the addition of new subsection (d);
- In Section 37-6:
  - o A change in new subsection (c) to make the appointment of a Public Defender in alternative arraignments permissive, rather than mandatory; and
  - o The addition of an automatic expiration of any Public Defender appearance entered in proceedings pursuant to new subsection (c) of Section 37-1, and a requirement that defendants for whom a Public Defender was appointed for such proceedings apply for Public Defender services for continued representation upon their first appearance in court after such arraignment; and
- In Section 3-6:
  - o A change clarifying that an appearance entered for the alternative arraignment proceedings pursuant to new subsection (c) of Section 37-1 will remain effective until the defendant’s first appearance in court after such arraignment. As previously written, the appearance would have expired upon the conclusion

of such arraignment in the same manner as the “for bail purposes only” appearances allowed in Section 3-6 (a). The change will ensure that hospitalized or incapacitated defendants have representation not only for any hearing on a motion pursuant to new subsection (c) of Section 37-1 and at any arraignment conducted pursuant to that subsection, but also until they are able to be present in court and have the opportunity to retain “full” counsel.

These proposed revisions have been developed and discussed with Attorney Rapillo and Attorney Richard Colangelo, Chief State’s Attorney, and are submitted to the Committee with their support. On our joint behalf, I request that these proposed revisions to the Revised Proposal, RC # 2019-001 g, be presented to the Rules Committee for consideration at its December 14, 2020 meeting.

Very truly yours,

Judge Gold

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Hon. David Gold  
Judge, Superior Court  
State Of Connecticut  
Email: David.Gold@jud.ct.gov  
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