

STATE OF CONNECTICUT  
SUPERIOR COURT  
FOR JUVENILE MATTERS



CHAMBERS OF  
**BERNADETTE CONWAY**  
CHIEF ADMINISTRATIVE JUDGE  
JUVENILE MATTERS

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January 21, 2021

Justice Andrew J. McDonald  
Chairman, Rules Committee of the Superior Court  
Supreme Court  
231 Capitol Avenue  
Hartford, CT 06106

Dear Justice McDonald:

Attached hereto for consideration of the Rules Committee are proposed changes to the Practice Book Rules consistent with the July 2020 Supreme Court decision of *In re Zakai F.* (SC 20234).

I respectfully request that you place these proposed revisions to the Practice Rules on the next Rules Committee Agenda. Please let me know if I can answer any questions that you may have concerning this request.

Respectfully,

A handwritten signature in cursive script that reads "Bernadette Conway".

Bernadette Conway,  
Chief Administrative Judge,  
Juvenile Matters

BC/bam

Enc.

cc: Hon. Patrick L. Carroll III, Chief Court Administrator  
Hon. Elizabeth A. Bozzuto, Deputy Chief Court Administrator  
Joseph J. DelCiampo, Counsel to the Rules Committee  
Nancy A. Porter, Counsel, Legal Services

**Sec. 35a-20. Motions for Reinstatement of Parent [or Former Legal Guardian] as Guardian [or Modification of Guardianship Post-Disposition]**

(a) Whenever a parent [or former legal guardian] whose guardianship rights to a child or youth were removed and transferred to another person or an agency other than the Department of Children and Families by the Superior Court for juvenile matters seeks reinstatement as that child's or youth's guardian, the parent [or former legal guardian] may file a motion for reinstatement of guardianship with the court that ordered the transfer of guardianship. [In other post-dispositional cases concerning a child or youth whose legal guardianship was transferred to a person other than a parent or former legal guardian, or to an agency other than the Department of Children and Families, any person permitted to intervene may move the court to modify the award of guardianship]

(b) The clerk shall assign such motion a hearing date and issue a summons to the current guardian and the nonmoving parent or parents. The moving party shall cause a copy of such motion and summons to be served on the child's or youth's current legal guardian(s) and the nonmoving parent or parents.

(c) Before acting on such motion, the judicial authority shall determine if the court still has custody jurisdiction and shall request, if necessary, that the Commissioner of the Department of Children and Families conduct an investigation and submit a home study that sets forth written findings and recommendations before rendering a decision.

(d) The hearing on a motion for reinstatement of guardianship is dispositional in nature. [The party] If the parent seeking reinstatement of guardianship demonstrates that the factors that resulted in the parent's removal as guardian are resolved satisfactorily, the parent is entitled to a presumption that reinstatement is in the best interest of the child or youth. The party opposing reinstatement of guardianship has the burden of proof to

rebut this presumption by clear and convincing evidence. [establish that cause for transfer of guardianship to another person or agency no longer exists].

[(e) The hearing on a motion for post-dispositional modification of a guardianship order is dispositional in nature. The party seeking to modify the existing guardianship order has the burden of proof to establish that the movant's proposed guardian is suitable and worthy. The judicial authority shall then determine if transfer of guardianship to that proposed guardian is in the child's or youth's best interest.]

COMMENTARY: This rule has been revised to be consistent with *In Re Zakai F.* (SC 20234) July 22, 2020. This rule is now specific to a parent who seeks reinstatement of guardianship. New rule 35a-20A addresses a nonparent, former legal guardian who seeks reinstatement of guardianship.

**Sec. 35a-20A(NEW). Motions for Reinstatement of [Parent or] Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition**

(a) Whenever a [parent or] former legal guardian whose guardianship rights to a child or youth were removed and transferred to another person or an agency other than the Department of Children and Families by the Superior Court for juvenile matters seeks reinstatement as that child's or youth's guardian, the [parent or] former legal guardian may file a motion for reinstatement of guardianship with the court that ordered the transfer of guardianship. In other post-dispositional cases concerning a child or youth whose legal guardianship was transferred to a person other than a parent or former legal guardian, or to an agency other than the Department of Children and Families, any person permitted to intervene may move the court to modify the award of guardianship.

(b) The clerk shall assign such motion a hearing date and issue a summons to the current guardian and the [nonmoving] parent or parents. The moving party shall cause a copy of such motion and summons to be served on the child's or youth's current legal guardian(s) and the [nonmoving] parent or parents.

(c) Before acting on such motion, the judicial authority shall determine if the court still has custody jurisdiction and shall request, if necessary, that the Commissioner of the Department of Children and Families conduct an investigation and submit a home study that sets forth written findings and recommendations before rendering a decision.

(d) The hearing on a motion for reinstatement of guardianship is dispositional in nature. The [party] former legal guardian seeking reinstatement of guardianship has the burden of proof to establish that cause for transfer of guardianship to another person or agency no longer exists. The judicial authority shall then determine if reinstatement of guardianship is in the child's or youth's best interest.

(e) The hearing on a motion for post-dispositional modification of a guardianship order is dispositional in nature. The party seeking to modify the existing guardianship order has the burden of proof to establish that the movant's proposed guardian is suitable and worthy. The judicial authority shall then determine if transfer of guardianship to that proposed guardian is in the child's or youth's best interest.

COMMENTARY: Consistent with *In Re Zakai F.* (SC 20234) July 22, 2020, Rule 35a-20 has been revised to address a parent who seeks reinstatement of guardianship. This new rule is specific to a former legal guardian who seeks reinstatement of guardianship.