Draft Letter

October __, 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 is a revision to Practice Book Section 35a-1(b) to remove the requirement that a plea of nolo contendere be in writing. The written requirement is burdensome and unnecessary, especially because a judge would still be required to give a thorough and proper canvas on a plea of nolo contendere. The Division of Public Defender Services has had an opportunity to consider this proposal and does not have an objection to it.

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

Respectfully,

Dawne Westbrook,
Chief Administrative Judge, Juvenile Matters

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 Porter, Counsel, Legal Services

Enc.

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

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

(b) An admission to allegations or a [written] plea of nolo contendere [signed by the respondent] may be accepted by the judicial authority. Before accepting an admission or plea of nolo contendere, the judicial authority shall determine whether the right to trial has been waived, and that the parties understand the content and consequences of their admission or plea. If the allegations are admitted or the plea accepted, the judicial authority shall make its adjudicatory finding as to the validity of the facts alleged in the petition and may proceed to a dispositional hearing. Where appropriate, the judicial authority may permit a noncustodial parent or guardian to stand silent as to the entry of an adjudication. The judicial authority shall determine whether a noncustodial parent or guardian standing silent understands the consequences of standing silent.

Commentary: This revision removes the requirements that a plea of nolo contendere be in writing and signed by the respondent.

STATE OF CONNECTICUT
JUDICIAL BRANCH
COURT OPERATIONS DIVISION

LEGAL SERVICES
Lori Petruzzelli, *Counsel, Legal Services*

100 Washington Street, P.O. Box 150474
Hartford, Connecticut 06115-0474
(860) 706-5120 Fax (860) 566-3449
Judicial Branch Website: www.jud.ct.gov

October 7, 2021

MEMO TO: Joseph Del Ciampo, Counsel, Rules Committee

FROM: Lori Petruzzelli, Assistant Counsel, Rules Committee

SUBJECT: Proposal for Amendment to Secs. 3-9

Every year, the Reporter of Judicial Decisions does a careful review of Practice Book amendments during the editorial process for the next edition of the Practice Book. As part of the process, an assistant reporter flags issues for our office. In Section 3-9, Withdrawal of Appearance; Duration of Appearance, the assistant reporter has suggested that a reference to new Section 35a-20A, Motions for Reinstatement of Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition, be added to Section 3-9 (f), so that an attorney's representation of a client in connection with appeals from certain juvenile matters is subject to Section 35a-20 *or Section 35a-20A*. I have submitted this proposal to Judge Westbrook, and she is in agreement. I respectfully submit the attached proposal for your consideration.

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

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

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

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

(d) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel

will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

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

(f) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation supervision or probation supervision with residential placement, family with service needs supervision, any commitment to the Commissioner of the Department of Children and Families pursuant to General Statutes § 46b-129 or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the attorney remains under contract to the Office of the Chief Public Defender to represent parties in child protection matters, the parent appears at the first hearing on the termination petition and qualifies for appointed counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20 or 35a-20A, and with motions for review of permanency plans, revocations or postjudgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.

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

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LEGAL SERVICES
Lori Petruzzelli, *Counsel, Legal Services*

100 Washington Street, P.O. Box 150474
Hartford, Connecticut 06115-0474
(860) 706-5120 Fax (860) 566-3449
Judicial Branch Website: www.jud.ct.gov

October 5, 2021

MEMO TO: Joseph Del Ciampo, Counsel, Rules Committee

FROM: Lori Petruzzelli, Assistant Counsel, Rules Committee

SUBJECT: Proposals for Amendments to Secs. 13-8 and 13-10

Every year, the Reporter of Judicial Decisions does a careful review of Practice Book amendments during the editorial process for the next edition of the Practice Book. As part of the process, an assistant reporter flags issues for our office. In Sections 13-8 (a) and 13-10 (h), the assistant reporter has suggested that references to the relevant new medical negligence forms would be appropriate, so that no objections would be permitted to those standard interrogatories and requests for production. This is consistent with how objections to other standard interrogatories and requests for production are handled. I have submitted these proposals to Judge Bellis, and she is in agreement. I respectfully submit the attached proposals for your consideration.

Sec. 13-8. —Objections to Interrogatories

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

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

(c) No objections to interrogatories shall be placed on the short calendar list until an affidavit by either counsel is filed certifying that bona fide attempts have been made to resolve the differences concerning the subject matter of the objection and that counsel have been unable to reach an agreement. The affidavit shall set forth the date of the objection, the name of the party who filed the objection and the name of the party to whom the objection was addressed. The affidavit shall also recite the date, time and place of any conference held to resolve the differences and the names of all persons participating therein or, if no conference has been held, the reasons for the failure to hold such a conference. If any objection to an interrogatory is overruled, the objecting party shall answer the interrogatory, and serve the answer within twenty days after the judicial authority ruling unless otherwise ordered by the judicial authority.

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

COMMENTARY: The change in subsection (a) adds the standard interrogatory forms for medical malpractice, Forms 218, 220 and 224, to the list of standard interrogatories to which objections may not be filed.

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

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

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

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

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

(b) All responses: (1) shall repeat immediately before the response the request for production being responded to; and (2) shall state with respect to each item or category that inspection and related activities will be permitted as requested, unless the request or any part thereof is objected to.

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

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

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

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

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

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

(i) No objection to any request for production shall be placed on the short calendar list until an affidavit by counsel or self-represented parties is filed certifying that they have made good faith attempts to resolve the objection and that counsel and/or self-represented parties have been unable to reach an agreement. The affidavit shall set forth: (1) the date of the objection; (2) the name of the party who filed the objection and to whom the objection was addressed; (3) the date, time and place of any conference held to resolve the differences; and (4) the names of all conference participants. If no conference has been held, the affidavit shall also set forth the reasons for the failure to hold such a conference.

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

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

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

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JUDICIAL BRANCH
COURT OPERATIONS DIVISION

LEGAL SERVICES
Lori Petruzzelli, *Counsel, Legal Services*

100 Washington Street, P.O. Box 150474
Hartford, Connecticut 06115-0474
(860) 706-5120 Fax (860) 566-3449
Judicial Branch Website: www.jud.ct.gov

October 1, 2021

MEMO TO: Joseph Del Ciampo, Counsel, Rules Committee

FROM: Lori Petruzzelli, Assistant Counsel, Rules Committee

SUBJECT: Proposals for Amendments to Secs. 43-39 and 43-41

Every year, the Reporter of Judicial Decisions does a careful review of Practice Book amendments during the editorial process for the next edition of the Practice Book. As part of the process, an assistant reporter flags issues for our office. In Sections 43-39 and 43-41, the assistant reporter has suggested that references to new Section 43-40A, -Included Time Period in Determining Speedy Trial; Failure to Comply with Disclosure by Prosecuting Authority, be included to make those sections consistent with the time period calculations contained therein.

I have submitted these proposals to Chief Administrative Judge for Criminal Matters, Judge Gold, and he is in agreement. I respectfully submit the attached proposals for your consideration.

Sec. 43-39. Speedy Trial; Time Limitations

(a) Except as otherwise provided herein and in Section 43-40 or 43-40A, the trial of a defendant charged with a criminal offense during the period from July 1, 1983, through June 30, 1985, inclusive, shall commence within eighteen months from the filing of the information or from the date of the arrest, whichever is later.

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

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

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

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

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

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

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

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

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

COMMENTARY: The changes to this section are consistent with the adoption of Sec. 43-40A, effective January 1, 2022, regarding the included time in the speedy trial calculation.

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

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

COMMENTARY: The changes to this section are consistent with the adoption of Sec. 43-40A, effective January 1, 2022, regarding the included time in the speedy trial calculation.