

Minutes of the Meeting
Rules Committee
Monday, October 21, 2019

On Monday, October 21, 2019, the Rules Committee met in the Supreme Court courtroom from 2:00 p.m. to 3:02 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. HOLLY ABERY-WETSTONE
HON. JOAN K. ALEXANDER
HON. BARBARA N. BELLIS
HON. SUSAN QUINN COBB
HON. MELANIE L. CRADLE
HON. DONNA NELSON HELLER
HON. BARRY K. STEVENS
HON. ANTHONY D. TRUGLIA JR.

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee; Lori Petruzzelli, Counsel, Legal Services; and Shanna O'Donnell, Research Attorney, of the Judicial Branch's Legal Services Unit.

1. The Committee approved the minutes of the meeting held on September 16, 2019.
2. The Committee considered a proposal from Senator Looney, Senator Winfield, and Representative Stafstrom concerning pre-trial discovery procedure in criminal matters.

After discussion, the Committee tabled this proposal until the November meeting to allow for further review.

3. The Committee considered a proposal from Natasha M. Pierre, State Victim Advocate, to amend various Rules of Professional Conduct and various Practice Book rules to ensure the proper treatment and protection of crime victims.

Natasha M. Pierre, State Victim Advocate, was present and addressed the Rules Committee regarding this proposal.

After discussion, the Committee tabled this proposal until the November meeting to allow for further review.

4. The Committee considered a proposal from the Judicial-Media Committee to amend Section 1-11C concerning media coverage in criminal proceedings.

Judge Alexander addressed the Rules Committee as the co-chair of the Judicial-Media Committee.

After discussion, the Committee referred this proposal to the Office of the Chief Court Administrator; the Office of the Chief State's Attorney; the Office of the Chief Public Defender; the Connecticut Criminal Defense Lawyers Association; the Criminal Justice Section of the Connecticut Bar Association; the Connecticut Coalition Against Domestic Violence; the Office of Victim Services; and the Office of the Victim Advocate to request their comments. The Chair also instructed Counsel to explore options for publicizing this proposal, as well as the Rules Committee meeting agendas in general, on the Judicial Branch website in order to solicit feedback on proposals. The Committee tabled this proposal until the November meeting to allow for comments and further review.

5. The Committee considered a proposal from the Statewide Grievance Committee and the Commission on Minimum Continuing Legal Education to amend Sections 2-27, 2-27A, and 2-65 and to adopt new Section 2-27B regarding administrative suspension of attorneys who fail to register or comply with Connecticut's Minimum Continuing Legal Education requirements.

Michael P. Bowler, Statewide Bar Counsel and Counsel to the Commission on Minimum Continuing Legal Education, was present and addressed the Rules Committee regarding this proposal.

After discussion, the Committee referred this proposal to the Connecticut Bar Association and local bar associations to request their comments. The Committee tabled this proposal until the November meeting to allow for comments and further review.

6. The Committee considered a proposal from Judge Prescott to amend Section 44-30 (b) and a related proposal from Counsel to amend Sections 23-55, 23-63, 44-27 and 44-30 of the Practice Book to replace the phrases "criminal rules of evidence" and "civil rules of evidence" with the phrase "Connecticut Code of Evidence."

After discussion, the Committee voted to submit to public hearing the amendments to Sections 44-30 (b), 23-55, 23-63, 44-27 and 44-30 of the Practice Book, replacing "criminal rules of evidence" and "civil rules of evidence" with "Connecticut Code of Evidence", as set forth in Appendix A to these minutes.

7. The Committee considered a proposal from Judge Keller to amend Sections 16-4 (a) and 42-5 of the Practice Book to prohibit the disqualification of jurors who are deaf or hard of hearing if that person's disability can be reasonably accommodated such that his or her capacity to serve as a juror will not be compromised.

After discussion, the Committee asked Melissa Farley of External Affairs to coordinate with Judge Keller to explore the possibility of incorporating the proposal into the Court Operations Bill. The Rules Committee tabled this proposal.

8. The Committee considered a proposal from Judge John Moore concerning the Commentary to Rule 7.1 of the Rules of Professional Conduct regarding an attorney making "misleading truthful statements."

Attorney Marcy T. Stovall, Chair of the Connecticut Bar Association Committee on Professional Ethics, was present and addressed the Rules Committee regarding this proposal.

After discussion, the Committee tabled this proposal until the November meeting to allow Attorney Stovall more time to contact Judge Moore regarding this proposal.

9. The Committee considered a proposal from Attorney Gary I. Cohen to amend Section 11-19 of the Practice Book concerning the time limit for deciding short calendar matters.

After discussion, the Committee tabled this proposal until the November meeting to allow Counsel to inquire as to the availability of statistics concerning the length of time between family short calendar hearings and the issuance of the corresponding decisions.

10. The Committee discussed making a recommendation for an individual to be appointed to the Legal Specialization Screening Committee (LSSC).

After discussion, the Committee tabled this matter until the November meeting to allow the Chair to consider individuals to recommend for appointment to the LSSC.

11. The Committee considered a proposal from Judge Adelman to amend Section 3-8 regarding hybrid appearances.

After discussion, the Committee tabled this matter until the December meeting to allow Court Operations to coordinate efforts to address one of the underlying issues through changes to the electronic filing systems.

12. The Rules Committee determined that a proposal regarding standardized questions for medical malpractice discovery should be added to the November meeting agenda.

Respectfully submitted,

Joseph J. Del Ciampo
Counsel to the Rules Committee

Appendix A (102119)

Sec. 23-55. –Hearing in Fact-Finding

In matters submitted to fact-finding a record shall be made of the proceedings and the [civil rules of evidence] Connecticut Code of Evidence shall apply.

COMMENTARY: The change to this section substitutes “Connecticut Code of Evidence” for “civil rules of evidence” as the appropriate reference to evidentiary rules.

Sec. 23-63. –Hearing in Arbitration

In matters submitted to arbitration no record shall be made of the proceedings and the strict adherence to the [civil rules of evidence] Connecticut Code of Evidence shall not be required.

COMMENTARY: The change to this section substitutes “Connecticut Code of Evidence” for “civil rules of evidence” as the appropriate reference to evidentiary rules.

Sec. 44-27. –Hearing of Infractions, Violations to Which Not Guilty Plea Filed

(a) Upon entry of a plea of not guilty to an infraction or to a violation which is payable by mail pursuant to statute, the clerk shall file such plea and forthwith transmit the file to the prosecuting authority for review.

(b) Unless a nolle prosequi or a dismissal is entered in the matter within ten days of the filing of a not guilty plea, the clerk shall schedule a hearing and shall send the defendant a written notice of the date, time and place of such hearing.

(c) Hearings shall be conducted in accordance with the [criminal rules of evidence] Connecticut Code of Evidence and with the provisions of chapter 42 insofar as the provisions of that chapter are applicable.

(d) A nolle prosequi or a dismissal may be entered in the absence of the defendant. In the event a nolle prosequi or a dismissal is entered in the matter, the clerk shall send a written notice of such disposition to any defendant who was not before the court at the time of such disposition. The entry of a nolle prosequi hereunder shall not operate as a waiver of the defendant's right thereafter to seek a dismissal pursuant to Section 39-30.

COMMENTARY: The change to this section substitutes "Connecticut Code of Evidence" for "criminal rules of evidence" as the appropriate reference to evidentiary rules.

Sec. 44-30. –Hearing by Magistrates of Infractions and Certain Motor Vehicle Violations

(a) Infractions and motor vehicle violations which may be submitted to a magistrate pursuant to statute may be heard by magistrates in those court locations where a magistrate has been appointed by the chief court administrator, except that magistrates may not conduct jury trials.

(b) Hearings by magistrates shall be conducted in accordance with the [criminal rules of evidence] Connecticut Code of Evidence and with the provisions of chapter 42 insofar as the provisions of that chapter are applicable. A magistrate shall sign all orders the magistrate issues, such signature to be followed by the word "magistrate."

(c) A decision of the magistrate, including any penalty imposed, shall become a judgment of the court if no demand for a trial de novo is filed. Such decision of the magistrate shall become null and void if a timely demand for a trial de novo is filed.

A demand for a trial de novo shall be filed with the court clerk within five days of the date the decision was rendered by the magistrate and, if filed by the prosecuting authority, it

shall include a certification that a copy thereof has been served on the defendant or his or her attorney, in accordance with the rules of practice.

(d) If the defendant is charged with more than one offense, and not all such offenses are motor vehicle violations within the jurisdiction of a magistrate, a judicial authority shall hear and decide such case.

(e) This section shall be inapplicable at any court location to which a magistrate has not been assigned by the chief court administrator.

COMMENTARY: The change to this section substitutes "Connecticut Code of Evidence" for "criminal rules of evidence" as the appropriate reference to evidentiary rules.