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Minutes of the Meeting
Rules Committee
October 15, 2018

On Monday, October 15, 2018, the Rules Committee met in the Supreme Court courtroom from 2:02 p.m. to 3:17 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. JOAN K. ALEXANDER
HON. BARBARA N. BELLIS
HON. MELANIE L. CRADLE
HON. KEVIN G. DUBAY
HON. DONNA NELSON HELLER
HON. SHEILA A. OZALIS
HON. DAVID M. SHERIDAN
HON. BARRY K. STEVENS

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

1. The Committee approved the minutes of the meeting held on September 17, 2018.

2. The Committee considered a response by Attorney Michael H. Agranoff to comments from Judge Conway, Chief Administrative Judge, Juvenile Matters, and from the Department of Children and Families regarding a proposal by Attorney Agranoff to amend Section 34a-1. After discussion, the Committee unanimously voted not to recommend the proposal to amend Section 34a-1.

3. The Committee considered comments from the Connecticut Bar Association (CBA) regarding a proposal by the Connecticut Chapter of the American Academy of Matrimonial Lawyers (AAML) to amend Section 25-5.

After discussion, the Committee tabled the matter in order to obtain a response to the CBA's comments from Judge Michael A. Albis, Chief Administrative Judge, Family Matters, and Judge James W. Abrams, Chief Administrative Judge, Civil Matters.

4. The Committee considered a proposal by Attorney Paul Ruszczyk to revise the procedures applicable to the Servicemembers Civil Relief Act to address the age of military affidavits.

After discussion, the Committee tabled the matter to the next meeting to refer it to Court Operations. The Committee requested that Counsel draft language for a proposed rule modeled on the policy of the Civil Court of the City of New York, and consistent with the recommendations of the Civil Division requiring that the affidavit be signed by a disinterested person in certain situations.

5. The Committee considered comments from Judge Alexander, Chief Administrative Judge, Criminal Matters, on a proposal by Judge John M. Newson concerning withdrawal of an appearance in criminal matters under Section 3-9.

After discussion, the Committee tabled the matter to the next meeting for further discussion and study by Judges Bellis and Alexander.

6. The Committee considered comments by the Connecticut Criminal Defense Lawyers Association (CCDLA) and Ms. Maureen M. Martowska concerning her proposal to amend Section 25-60.

After discussion, the Committee tabled the matter to the next meeting in order to obtain a response from Judge Albis to the comments of Ms. Martowska.

7. The Committee considered a proposal by Judge Bernadette Conway, Chief Administrative Judge, Juvenile Matters to amend various sections of the Practice Book to

conform to the provisions of Public Act 18-31, *An Act Concerning the Recommendations of the Juvenile Justice Policy and Oversight Committee and Concerning the Transfer of Juvenile Services from the Department of Children and Families to the Court Support Services Division of the Judicial Branch.*

After discussion, the Committee unanimously voted to submit to public hearing the proposed revisions to the juvenile rules, as set forth in Appendix A, attached to these minutes.

8. The Committee considered an inquiry by Judge Susan Cobb regarding whether a co-defendant is an "adverse party" for purposes of opposing another co-defendant's motion for summary judgment.

After discussion, the Committee unanimously decided to take no action on the inquiry.

9. The Committee considered a proposal by Mr. Robert Berriault for a rule to allow for a waiver of fees for certain applicants to the bar. Jessica F. Kallipolites, Administrative Director of the Connecticut Bar Examining Committee, and Mr. Berriault were present and addressed the Committee.

After discussion, the Committee tabled the matter to the next meeting and directed the Connecticut Bar Examining Committee to provide it with research and comments by November 12, 2018. The Committee also requested that Attorney Anne C. Dranginis, Chair of the Connecticut Bar Examining Committee, be invited to the next meeting of the Rules Committee. The Committee requested that Counsel research the policies of other states on bar examination fee waivers.

10. The Committee considered a proposal by the American Civil Liberties Union of Connecticut (ACLU) to amend Rules 1.0 and 5.4 of the Rules of Professional Conduct, regarding the sharing of fees in connection with a referral by a qualified legal assistance

organization. Attorney Dan Barrett, Legal Director of the ACLU of Connecticut was present and addressed the Committee.

After discussion, the Committee tabled the matter to obtain comments from the Connecticut Bar Association, Office of the Chief Disciplinary Counsel, the Statewide Grievance Committee, and Connecticut Legal Services.

11. The Committee considered a proposal by Stephen Morelli, Chairman of the Workers' Compensation Commission, to amend Section 2-27A (a) (1) to exempt Workers' Compensation Commissioners from the requirements of MCLE. Chairman Morelli was present and addressed the Committee.

After discussion, the Committee unanimously voted to submit to public hearing the proposed revision to Section 2-27 (a) (1), as set forth in Appendix B, attached to these minutes.

12. Justice McDonald suggested a procedure for streamlining the consideration of new agenda items. Items will go on the agenda for the first time; comments will be solicited from stakeholders; comments then will be delivered to the appropriate Chief Administrative Judge(s) (CAJ) for feedback and consideration; once considered by the CAJ(s), the matter will be placed back on agenda.

13. Judge Stevens requested that the Committee receive materials accompanying the agenda seven to ten days before a meeting.

Respectfully submitted,

Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A (101518)

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 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, [or] 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, 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 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 6-3. –Preparation; When; By Whom; Filing

(a) Judgment files in civil, criminal, family and juvenile cases shall be prepared when: (1) an appeal is taken; (2) a party requests in writing that the judgment be incorporated into a judgment file; (3) a judgment has been entered involving the granting of a dissolution of marriage or civil union, a legal separation, an annulment, injunctive relief, or title to property (including actions to quiet title but excluding actions of foreclosure), except in those instances where judgment is entered in such cases pursuant to Section 14-3 and no appeal has been taken from the judicial authority's judgment; (4) a judgment has been entered in a juvenile matter involving allegations that a child has been neglected, abused, or uncared for, or involving termination of parental rights, [commitment of a delinquent child] or commitment of a child from a

family with service needs; (5) in criminal cases, sentence review is requested; or (6) ordered by the judicial authority.

(b) Unless otherwise ordered by the judicial authority, the judgment file in juvenile cases shall be prepared by the clerk and in all other cases, in the clerk's discretion, by counsel or the clerk.

As to judgments of foreclosure, the clerk's office shall prepare a certificate of judgment in accordance with a form prescribed by the chief court administrator only when requested in the event of a redemption. In those cases in which a plaintiff has secured a judgment of foreclosure under authority of General Statutes § 49-17, when requested, the clerk shall prepare a decree of foreclosure in accordance with a form prescribed by the chief court administrator.

(c) Judgment files in family cases shall be filed within sixty days of judgment.

COMMENTARY 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

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," ["youth,"] "abused," ["mentally deficient,"] "delinquent," "delinquent act," "neglected," "uncared for," "alcohol-dependent child," "family with service needs," "drug-dependent child," "serious juvenile offense," "serious juvenile offender," [and] "serious juvenile repeat offender," "pre-dispositional 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.

(b) "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) "Complaint" means a written allegation or statement presented to the judicial authority that a child's [or youth's] conduct as a delinquent or situation as a child from a family with service needs brings the child [or youth] within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

(d) "Detention" means a secure building or staff secure facility for the temporary care of a child who is the subject of a delinquency complaint.

(e) "Family support center" means a community-based service center for children and families involved with a complaint that has been filed with the superior court under General Statutes § 46b-149, that provides multiple services, or access to such services, for the purpose of preventing such children and families from having further involvement with the court as families with service needs.

(f) "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.

(g) "Hearing" means an activity of the court on the record in the presence of a judicial authority and shall include (1) "Adjudicatory hearing": 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) "Dispositive hearing": The judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition or information having been established, 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[, 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 (i) a parent or guardian who is a named respondent in a neglect, uncared for or dependency petition, upon being advised of his or her rights, admits, denies, or pleads nolo contendere to allegations contained in the petition; or (ii) 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 contained in the information or petition, or a hearing at

which a child [or youth] who is a named respondent in a family with service needs petition admits or denies the allegations contained in the petition upon being advised of the allegations[.]; (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 the public, and convene a hearing on the request within seven days.

(h) "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.

(i) "Parent" means a biological mother or father or adoptive mother or father except a biological or adoptive mother or father whose parental rights have been terminated; or the father of any child [or youth] born out of wedlock, provided at the time of the filing of the petition (1) he has been adjudicated the father of such child [or youth] by a court which possessed the authority to make such adjudication, or (2) he has acknowledged in writing to be the father of such child [or youth], or (3) he has contributed regularly to the support of such child, or (4) his name appears on the birth certificate, or (5) he has filed a claim for paternity as provided under General Statutes § 46b-172a, or (6) he has been named in the petition as the father of the minor child [or youth] by the mother.

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

(k) "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), [46b-141,] and 46b-149 (j).

(*l*) "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.

(m) "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.

(n) ["Probation" means a legal status created in delinquency cases following conviction whereby a respondent child is permitted to remain in the home or in the physical custody of a relative or other fit person subject to supervision by the court through the court's probation officers and upon such terms as the judicial authority determines, subject to the continuing jurisdiction of the judicial authority.] <u>"Probation supervision" means a legal status whereby a juvenile who has been adjudicated</u>

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.

(o) "Probation supervision with residential placement" means a legal status whereby a 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.

[(o)](p) "Respondent" means a person who is alleged to be a delinquent or a child from a family with service needs, or a parent or a guardian of a child [or youth] who is the subject of a petition alleging that the child is uncared for, abused, neglected, or requesting termination of parental rights.

(q) "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.

[(p)](r) "Specific steps" means those judicially determined steps the parent or guardian and the commissioner of the department of children and families should take in order for the parent or guardian to retain or regain custody of a child [or youth].

[(q)](s) "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.

(t) "Staff-secure residential facility" means a residential facility that provides residential treatment for children in a structured setting where the children are monitored by staff.

[(r)](u) "Supervision" includes: (1) "Nonjudicial supervision": A legal status without the filing of a petition or a court conviction or adjudication but following the child's admission to a complaint wherein a probation officer exercises supervision over the child with the consent of the child and the parent; (2) "Protective supervision": 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 legal status similar to probation for a child adjudicated to be from a family with service needs or subject to supervision pursuant to an order of suspended proceedings under General Statutes § 46b-133b or § 46b-133e.

[(s)](v) "Take into Custody Order" means an order by a judicial authority that a child be taken into custody and immediately turned over to a detention superintendent where probable cause has been found that the child has committed a delinquent act,

there is no less restrictive alternative available, and the child meets the criteria set forth in Section 31a-13.

COMMENTARY 2019: The proposed amendments to this section conform to General Statutes § 46b-120, as amended by No. 18-31, § 25, of the 2018 Public Acts.

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

In the case of a delinquency complaint, a child shall not be eligible for nonjudicial handling if one or more of the following apply, unless waived by the judicial authority:

(1) The alleged misconduct:

(A) is a serious juvenile offense under General Statutes § 46b-120, or any other felony or violation of General Statutes § 53a-54d;

(B) concerns the theft or unlawful use or operation of a motor vehicle; or

(C) concerns the sale of, or possession of with intent to sell, any illegal drugs or the use or possession of a firearm.

(2) The child was previously [convicted] adjudicated delinquent or adjudged a child from a family with service needs.

(3) The child admitted nonjudicially at least twice previously to having been delinquent.

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

(5) If the nature of the alleged misconduct warrants judicial intervention.

COMMENTARY 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 30-6. Basis for Detention

No child may be held in detention unless a judge of the superior court determines, based on the available facts that there is probable cause to believe that the child 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 [will] poses [a risk] 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 in order to ensure the child's appearance before the court or compliance with court process, as demonstrated by the child's previous failure to respond to the court process, or (3) a need to hold the child 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 [assessment] screening for such child developed by the judicial branch.

HISTORY 2018: Prior to 2018, this section read: "No child shall be held in detention unless it appears from the available facts that there is probable cause to believe that the child is responsible for the acts alleged, that there is no less restrictive alternative available and that there is (1) a strong probability that the child will run away prior to the court hearing or disposition, or (2) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or the community prior to the court disposition, or (3) probable cause to believe that the child's continued residence in the child's home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is

alleged to have committed, (4) a need to hold the child for another jurisdiction, (5) a need to hold the child to assure the child's appearance before the court, in view of the child's previous failure to respond to the court process, or (6) the child has violated one or more of the conditions of a suspended detention order. The court in exercising its discretion to detain under General Statutes § 46b-133 (e) may consider a suspended detention order with graduated sanctions as an alternative to detention in accordance with graduated sanctions procedures established by the judicial branch."

COMMENTARY 2019: The proposed amendments to this section conform to General Statutes § 46b-133, as amended by No. 18-31, § 33, of the 2018 Public Acts.

Sec. 30a-3. –Standards of Proof; Burden of Going Forward

(a) The standard of proof for a delinquency [conviction] adjudication is evidence beyond a reasonable doubt and for a family with service needs adjudication is clear and convincing evidence.

(b) The burden of going forward with evidence shall rest with the juvenile prosecutor.

COMMENTARY 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 30a-5. Dispositional Hearing

(a) The dispositional hearing may follow immediately upon [a conviction or] 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) The prosecutor and the child [or youth] and parent or guardian shall have the right to produce witnesses on behalf of any dispositional plan they may wish to offer.

(d) 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) The judicial authority shall determine an appropriate disposition upon [conviction] adjudication of a child as delinquent in accordance with General Statutes §§ 46b-140 and 46b-141.

(f) The judicial authority shall determine an appropriate disposition upon adjudication of a child from a family with service needs in accordance with General Statutes § 46b-149 (h).

(g) The judicial authority shall determine the appropriate disposition upon a finding that a child adjudicated as a child from a family with service needs has violated a valid court order.

COMMENTARY 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

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 has signed a statement of responsibility, confirmed a plea agreement or been [convicted] adjudicated as a delinquent.

COMMENTARY 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

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 [or finding of guilty]. 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 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

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 finding of guilty] 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 2019: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

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

(a) At any time during the period of probation[,] supervision [or suspended commitment] 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, 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 2019: The proposed amendments to this section conform to General Statutes § 46b-140a, as amended by No. 18-31, § 37, of the 2018 Public Acts.

[Sec. 31a-19. Motion for Extension of Delinquency Commitment; Motion for Review of Permanency Plan

(a) The commissioner of the department of children and families may file a motion for an extension of a delinquency commitment beyond the eighteen month or four year period on the grounds that such extension is for the best interests of the child or the community. The clerk shall give notice to the child, the child's parent or guardian, counsel of record for the parent or guardian and child at the time of disposition and, if applicable, the guardian ad litem not later than fourteen days prior to the hearing upon such motion. The judicial authority may, after hearing and upon finding such extension is in the best interests of the child or the community, continue the commitment for an additional period of not more than eighteen months.

(b) Not later than twelve months after a child is committed as a delinquent to the commissioner of the department of children and families, the judicial authority shall hold a permanency hearing. Such a hearing will be held every twelve months thereafter if the

child remains committed. Such hearing may include the submission of a motion to the judicial authority by the commissioner to either modify or extend the commitment.

(c) At least sixty days prior to each permanency hearing required under subsection (b) of this section, the commissioner of the department of children and families shall file a permanency plan with the judicial authority. At each permanency hearing, the judicial authority shall review and approve a permanency plan that is in the best interests of the child and takes into consideration the child's need for permanency. The judicial authority shall also determine whether the commissioner of the department of children and families has made reasonable efforts to achieve the permanency plan.]

COMMENTARY 2019: The proposed repeal of this section conforms to the provisions of No. 18-31 of the 2018 Public Acts.

APPENDIX B (101518)

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, workers' compensation commissioners, 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 Sections 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 continuing 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 selfstudy 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, 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, 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.

(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. 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 twelve month period.

(3) Credit for the writing and publication of articles shall be based on the actual drafting time required. 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 a lawyer; (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.

(e) Violation of this section shall constitute misconduct.

(f) Unless it is determined that the violation of this section was wilful, a noncompliant attorney must be given at least sixty days to comply with this section before he or she is subject to any discipline.

(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: The change to this section adds workers' compensation commissioners to the list of attorneys who are exempt from the requirements of this rule.