



Appellate Court
State of Connecticut

Chambers of
ELIOT D. PRESCOTT
Judge

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April 10, 2019

The Honorable Andrew J. McDonald
Justice, Supreme Court
231 Capitol Ave
Hartford, CT 06106

Dear Justice McDonald,

I am writing to you as Chairman of the Rules Committee of the Superior Court. I noticed that Practice Book § 44-30 (b) refers to the "criminal rules of evidence." Because we do not have a separate code of evidence in criminal cases, I think this provision should be amended for purposes of clarity to refer to the "Code of Evidence."

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "E. Prescott".

Hon. Elliot D. Prescott

EDP:na

Dear Judges,

In connection with the proposal submitted by Judge Prescott, we researched the Practice Book to determine whether any other provisions need to be revised and we discovered that the following rules should also be revised:

- Section 23-55 mentions the civil rules of evidence
- Section 23-63 mentions the civil rules of evidence
- Section 44-27 (c) mentions the criminal rules of evidence, and
- Section 44-30 (b) mentions the criminal rules of evidence.

Each of these references should be standardized to refer to the Connecticut Code of Evidence (as opposed to a civil or criminal code of evidence, which does not exist). Thank you.

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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 shall apply.

(P.B. 1978-1997, Sec. 546F.)

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 shall not be required.

(P.B. 1978-1997, Sec. 546P.) (Amended June 29, 1998, to take effect Jan. 1, 1999.)

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 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.

(P.B. 1978-1997, Sec. 1008A.)

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 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.

(P.B. 1978-1997, Sec. 1011D.)