

Appendix A (032420)

Superior Court – General Provisions

Chapter 1 – Scope of Rules

- Sec. 1-24. Record of Off-Site Judicial Proceedings

Sec. 1-24 requires an on-the-record summary off-site judicial proceedings “by the next court day.” Suspending this rule would allow flexibility for the court given limited resources.

Chapter 2 – Attorneys

- Sec. 2-11A. Appeal from Decision of Bar Examining Committee concerning Conditions of Admission

Sec. 2-11A provides that an appeal of a decision of the Connecticut Bar Examining Committee be filed within 30 days of the decision. Given the suspension of statutes of limitation it is consistent to suspend this requirement.

- Sec. 2-27A. Minimum Continuing Legal Education.

Sec. 2-27A prescribes the requirements for MCLE. Due to limitations of public gatherings, it is appropriate to suspend this rule.

- Sec. 2-28B (c) and (e). – Advisory Opinions.

Sec. 2-28B (c) prescribes timelines by which the Statewide Grievance Committee must issue advisory opinions. Sec. 2-28B (e) states that the failure of the Committee to issue a timely opinion means that the Committee acquiesces that relevant advertisement or communication is compliant with the Rules. Current staffing levels require greater flexibility.

- Sec. 2-32. Filing Complaints against Attorneys; Action; Time Limitation

Sec. 2-32 contains various deadlines, including deadlines that are akin to a statute of limitations. Sec. 2-32 (a) requires the statewide bar counsel to review and process complaints within seven days of receipt. Current staffing levels require greater flexibility.

- Sec. 2-35. Action by Statewide Grievance Committee or Reviewing Committee

Sec. 2-35 contains various deadlines including a requirement that Disciplinary Counsel has 14 days to respond to a request for review. Current staffing levels require greater flexibility.

- Sec. 2-36. Action by Statewide Grievance Committee on Request for Review

Sec. 2-36 requires that the Statewide Grievance Committee must issue its decision on a request for

review within 60 days. The current situation requires greater flexibility.

- Sec. 2-38. Appeal from Decision of Statewide Grievance Committee or Reviewing Committee Imposing Sanctions or Conditions

Sec. 2-38 provides that an appeal of a grievance decision must be taken within 30 days. Given the suspension of statutes of limitation it is consistent to suspend this requirement.

- Sec. 2-39 (b). Reciprocal Discipline

Sec. 2-39 (b) sets forth time limits with regard to reciprocal discipline. The current situation requires greater flexibility.

- Sec. 2-40 (f). Discipline of Attorneys Found Guilty of Serious Crimes in Connecticut

Sec. 2-40 (f) requires that a hearing on a presentment complaint shall be held within sixty days of the filing of the presentment. The current situation requires greater flexibility. Note that it is not recommend that the Sec. 2-40 (d) be suspended. Sec. 2-40 (d) requires that the “any attorney found guilty of any crime shall send written notice of the finding of guilt to the disciplinary counsel and the Statewide Grievance Committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the finding of guilt.”

- Sec. 2-41 (f). Discipline of Attorneys Found Guilty of Serious Crimes in Another Jurisdiction.

Sec. 2-41 (f) Sec. 2-40 (f) requires that a hearing on a presentment complaint shall be held within sixty days of the filing of the presentment. The current situation requires greater flexibility. Note that it is not recommend that the Sec. 2-41 (d) be suspended. Sec. 2-41 (d) requires that the “any attorney found guilty of any crime in another jurisdiction shall send written notice of the finding of guilt to the disciplinary counsel and the Statewide Grievance Committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the finding of guilt.”

- Sec. 2-47 (a). Presentments and Unauthorized Practice of Law Petitions

Sec. 2-47 (a) requires a hearing on the merits of the complaint shall be held within sixty days of the date a complaint was filed with the court. The current situation requires greater flexibility.

- Sec. 2-53 (h) and (j). Reinstatement after Suspension, Disbarment or Resignation

Sec. 2-53 (h) requires that the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel file a report with the standing committee within 60 days of referral from the chief justice. Sec. 2-53 (j) requires that the standing committee shall complete its work within 180 days of the referral. The current situation requires greater flexibility.

- Sec. 2-70 (a). –Client Security Fund Fee

Sec. 2-70 (a) requires the collection of the Client Security Fund Fee. Suspension of the rule would allow for flexibility in assessing the fee.

- Sec. 2-71 (a) (3). –Eligible Claims

Sec. 2-71 (a) (3) requires that claims for reimbursement be filed within four years. Given the suspension of statutes of limitation it is consistent to suspend this requirement.

- Sec. 2-75 (a). –Processing Claims

Sec. 2-75 (a) sets forth timelines by which the client security fund committee and attorney must take certain actions. The current situation requires greater flexibility.

- Sec. 2-79 (a). –Enforcement of Payment of Fee

Sec. 2-79 (a) sets out the timeframe for administrative suspensions. The current situation requires greater flexibility.

Chapter 3 – Appearances

- Sec. 3-2. Time To File Appearance

Appearances must be filed within two days of the return day to avoid the filing of a Motion for Default for Failure to Appear. We propose suspending this requirement as no default orders are issuing at this time.

Chapter 4 – Pleadings

- Sec. 4-5 (b). Notice Require for Ex Parte Temporary Injunctions

Temporary Injunction orders expire 30 days after issuance unless the court holds a hearing and makes factual findings. This may not be possible under prevailing circumstances.

Chapter 6 – Judgments

- Sec. 6-1 (c). Statement of Decision; When

This section involves appeals of § 14-3 dismissals for lack of diligence and requires parties to file briefs within 20 days of filing the appeal. This isn't a problem if they are e-filed or filed on paper (by excluded attorneys and self-represented parties). The problem is that the judicial authority is required to issue a memorandum of decision within 20 days of briefs being filed. It is likely that the appeals will not be processed in a timely manner, if at all, and that judges will be unable to meet this deadline.

Chapter 7 – Clerks; Files and Records

- Sec. 7-4B (d). Motion To File Record under Seal

Sec. 7-4B (d) provides that the clerk shall return or destroy a lodged record upon the expiration of the appeal period. Given the current situation destruction on such a tight schedule may not be advisable.

- Sec. 7-13. –Criminal/Motor Vehicle Files and Records

Sec. 7-13 addresses the destruction of files and mandates the destruction of certain criminal files. The timelines for such destruction may not be appropriate given the current situation.

- Sec. 7-14. –Reports from Adult Probation and Family Division

Sec. 7-14 addresses the destruction of Reports from the Adult Probation and Family Division. The timelines for such destruction may not be appropriate given the current situation.

- Sec. 7-17. Clerks' Offices

Sec. 7-17 provides that each clerk's office shall be open at least five days per week, except during weeks with a legal holiday. The current situation requires that the Chief Court Administrator have greater flexibility to operate the clerk's offices and courthouses.

Superior Court – Procedure in Civil Matters

Chapter 11 – Motions, Requests, Orders of Notice and Short Calendar

- Sec. 11-14. –Short Calendar; Frequency; Time; Lists

This section requires short calendar to be held at least once a month. Unfortunately, we may not be able to comply with this.

- Sec. 11-19 (a). –Time Limit for Deciding Short Calendar Matters

This section imposes a 120 day time limit for decisions on short calendar matters. Currently, all civil short calendars are cancelled, but even if this were to change, we may not be able to process the orders due to reduced staffing levels even if they are completed. Also, those judges who are unable to work from home will not be able to complete their decisions.

- Sec. 11-20A. Sealing Files or Limiting Disclosure of Documents in Civil Cases

According to this section, all sealing motions must be placed on short calendar within 15 days of filing. Until short calendar is recommenced, this section cannot be complied with.

Chapter 17 – Judgments

- Sec. 17-30 (a) and (b). –Summary Process; Default and Judgment for Failure To Appear or Plead

Subsection (a) requires summary process defendants to appear within two days of the return day or be subject to being defaulted for failure to appear. Under subsection (b), if the defendant fails to plead within two days of return date, the plaintiff can file a motion for judgment and if no responsive pleading is filed within three days of the motion, the judicial authority shall enter judgment of possession. Clearly, we don't want these provisions to be enforced against tenants right now.

Chapter 23 – Miscellaneous Remedies and Procedures

- Sec. 23-20. Review of Civil Contempt

This section requires that those held on civil contempt orders be brought to court within 30 days for a hearing. This may not be possible under current circumstances.

- Sec. 23-68. Where Presence of Person May Be by Means of an Interactive Audiovisual Device

Suspension recommended to permit the Chief Court Administrator to issue orders or directives which allow that during the pendency of the Governor's public health emergency and civil preparedness emergency declarations of March 10, 2020 a judicial authority may, after giving due consideration to public health concerns, order that any person be present for any proceeding in any civil matter, including all proceedings within the jurisdiction of the small claims section, or any family matter, including all proceedings within the jurisdiction of the family support magistrate division, by means of an interactive audiovisual device if the interests of justice permit such appearance.

Chapter 24 – Small Claims

- Sec. 24-15 (a). –Scheduling of Hearings; Continuances

This section requires Small Claims hearings to be held between six and 45 days after the answer date. This is clearly impossible right now given the fact that Small Claims court is suspended.

Superior Court – Procedure in Family Matters

Chapter 25 – General Provisions

- Sec. 25-3. Action for Custody of Minor Child

This rule requires hearings on new custody applications to be held no more than thirty days from filing. We are continuing, and should continue, to accept new filings and the clerks must set dates for hearings and for service of the papers on the opposing party, but under current circumstances it is not feasible to set a hearing date within the thirty-day time limit.

- Sec. 25-4. Action for Visitation of Minor Child

This rule requires hearings on new visitation applications to be held no more than thirty days from filing. We have the same concern as for custody applications described above.

- Sec. 25-17. –Date for Hearing

This rule requires that a motion to strike in a family case be placed on a short calendar within fifteen days. Such motions in family are very rare, but if one were to be filed the court likely would be unable to meet the time requirement.

- Sec. 25-59A. Sealing Files or Limiting Disclosure of Documents in Family Matters

This rule, in subsection (f) (1), requires that a motion to seal a file in a family case be placed on a short calendar within fifteen days, which likely would not be possible.

Superior Court – Procedure in Family Support Magistrate Matters

Chapter 25a – Family Support Magistrate Matters

- Sec. 25a-2 Prompt Filing of Appearance

This section requires appearances in Title IV-D child support matters (which could include appearances by Support Enforcement Services), to be filed “promptly,” which may not be possible.

- Sec. 25a-3. Withdrawal of Appearance; Duration of Appearance

This section establishes automatic time periods for the withdrawal of appearances which may not be feasible and may result in the premature elimination of attorney appearances.

- Sec. 25a-14. –Continuances when Counsel's Presence or Oral Argument Required

This section only allows for continuances from certain short calendar matters for good cause shown, unless the parties agree or the court orders otherwise.

- Sec. 25a-15. Statements To Be Filed

This rule imposes on parties and counsel the obligation to file certain documents before a hearing. It may not be necessary to address this as it involves time periods binding on the parties, not the court, and would likely be deemed moot if the hearing did not go forward due to the limited court operations.

- Sec. 25a-17. Motion To Open Judgment of Paternity by Acknowledgment

This rule requires hearings on motions to open acknowledgments of paternity to be held no more than thirty days from filing. Under current circumstances it is not feasible to set a hearing date within the thirty-day time limit.

- Sec. 25a-19. Standard Disclosure and Production

This rule imposes on parties and counsel the obligation to exchange certain documents by way of discovery within thirty days of a request or order. It involves time periods binding on the parties, not the court.

- Sec. 25a-23. Answers to Interrogatories

This rule imposes on parties and counsel the obligation to respond to interrogatories within sixty days. It also involves time periods binding on the parties, not the court, although a request for extension of time may be filed with the court.

Superior Court – Procedure in Juvenile Matters

Chapter 30 – Detention

- Sec. 30-7 Place of Detention Hearings

Pursuant to the Branch's consolidation of courts, only two of the 11 juvenile courthouses remain open. Priority 1 delinquency cases are being heard only in the Hartford and Bridgeport juvenile courthouses.

Chapter 31a – Delinquency and Family with Service Needs Motions and Applications

- Sec. 31a-1A (a). Continuances and Advancements

Non-priority 1 cases are not being processed or assigned court dates.

Chapter 34a – Pleadings, Motions and Discovery: Neglected, Abused and Uncared for Children and Termination of Parental Rights

- Sec. 34a-1 (c). Motions, Requests and Amendments

Termination of Parental Rights (TPRs) are now deemed non-priority 1 cases as are all other child protection matters except for Orders of Temporary Custody (OTCs).

- Sec. 34a-5. Continuances and Advancements

Same as above.

Chapter 35a – Hearings Concerning Neglected, Abused and Uncared for Children and Termination of Parental Rights

- Sec. 35a-12 (b), (c), and (e). Protective Supervision —Conditions, Modification, and Termination

Protective supervision cases require an in court review hearing no less than thirty days prior to protective supervision ending. These are not priority 1 cases and therefore cannot be scheduled or addressed.

- Sec. 35a-14 (c), (f), and (h). Motions for Review of Permanency Plan

Children adjudicated abused/neglected and/or uncared for and committed to DCF until further order of the court. Nine months after commitment (or date of entering DCF care) DCF must file permanency plan and a court hearing to approve a permanency plan must occur every 12 months. Adherence to such a timetable is not possible under the present circumstances. These are not priority 1 cases.

- Sec. 35a- 21 (a) and (c). Appeals in Child Protection Matters

Child protection appeals, except those involving OTC, are not priority 1 cases.

Superior Court – Procedure in Criminal Matters

Chapter 37 – Arraignment

- Sec. 37-1. Arraignment; Timing

The request is being made to allow flexibility in the timing of the presentment of a defendant before a court. In the event that arraignment procedures needed to be modified to a more restricted schedule, the suspension of the rule would permit the arraignments to be conducted in a manner consistent with the court's ability to operate.

- Sec. 37-12. Defendant in Custody; Determination of Probable Cause

The courts have continued to maintain probable cause findings, specifically as it relates to weekend arrests. In the event that it is not possible to have this finding within 48 hours, the suspension of the rule would permit the court to make the probable cause determination at the soonest date available under the circumstances. The suspension would also address the sealing requirement so as not to require a party to respond within seven days for recommendations as to the court order and also allows the court to continue its sealing order beyond fourteen days. This suspension of the rule would allow for appropriate notice and a full hearing to take place on the merits of any sealing order.

Chapter 38 – Pretrial Release

- Sec. 38-6. Appearance after Release

The suspension of the rule only applies to a defendant who is not in custody. Currently, the courts are receiving all domestic arraignments on the next court date. All domestic arraignments have protective orders issued by law enforcement which remain in effect until the defendant is seen before the court. In the event that it is not possible to conduct an arraignment on the next court date, the suspension of the rule would allow for the court to schedule the first presentment on a different, but still expedited date. In cases where the defendant is not in custody and it is not a domestic arraignment, the suspension of the rule requiring an initial appearance of not more than fourteen days allows the courts to maintain appropriately sized dockets and provides notice to all parties as to the scheduling of the cases.

- Sec. 38-18. –Review of Detention Prior to Arraignment, Trial or Sentencing

The rule requires the review of any detained person's bail within 45 days and within 30 days if the person is held on a misdemeanor or class D felony. The suspension of the rule would remove mandatory bail reviews within these time restraints. A court could still conduct bail reviews by way of motion or through a video-conference at an appropriately scheduled date.

- Sec. 38-21. –Forfeiture of Bail and Rearrest Warrant

The rule requires any person whose bond has been forfeited to be returned to custody within 6 months in order to release a surety from their bond obligation. The suspension of the rule would allow the surety additional time to locate the person and is consistent with the court focusing on designated

priority cases.

Chapter 40 – Discovery and Depositions

- Sec. 40-11. Disclosure by the Prosecuting Authority

The rule requires the prosecution to disclose certain materials within 45 days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

- Sec. 40-13. Names of Witnesses; Prior Record of Witnesses; Statements of Witnesses

The rule requires the prosecution to disclose the names of witnesses, the records of witnesses and the statements of witnesses within 45 days from the filing of a request to produce these materials. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

- Sec. 40-13A. Law Enforcement Reports, Affidavits and Statements

The rule requires the prosecution to disclose certain materials within 45 days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

- Sec. 40-17. Defense of Mental Disease or Defect or Extreme Emotional Disturbance; Notice by Defendant

The rule requires the defendant, when relying on one of the above-captioned affirmative defenses, to notice the prosecution within 45 days of the intention to use said defense. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

- Sec. 40-18. –Notice by Defendant of Intention To Use Expert Testimony regarding Mental State; Filing Reports of Exam

The rule requires the defendant to notice the prosecution within 45 days of the intention to use an expert witness and to produce the report of the expert within 5 days of receipt. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

- Sec. 40-21. Defense of Alibi; Notice by Defendant

The rule requires the defendant to notice the prosecution within 20 days after written demand of the intention to use said defense. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have the court direct the time period in which the defense needs to comply with the notice.

- Sec. 40-22. –Notice by Prosecuting Authority concerning Alibi Defense

The rule requires the prosecution to notice the defense within 20 days, but no less than 10 days before trial, the use of witnesses to rebut an alibi defense. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have the court direct the time period in which the prosecution needs to comply with the notice.

- Sec. 40-26. Disclosure by the Defendant; Information and Materials Discoverable by the Prosecuting Authority as of Right

The rule requires the prosecution to disclose certain materials within 45 days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

Chapter 41 – Pretrial Motions

- Sec. 41-5 –Time for Filing Motion To Suppress

The rule requires the filing of pretrial motions not later than 10 days after the first pretrial conference. By suspending the rule, the court will not be required to grant permission for an extension of time due to the current circumstances.

Chapter 42 – Trial Procedure

- Sec. 42-49A Sealing or Limiting Disclosure of Documents in Criminal Cases

The rule pertains to any motion sealing or limiting order on criminal documents which must be held not less than 15 days following the filing of the motion and must notice the public as to the date, time and place of the hearing. By suspending the rule, it would allow the court to provide appropriate notice and to schedule a full hearing to take place on the merits of any sealing order.

- Sec. 42-52 –Time for Filing Motion for Judgment of Acquittal

The rule pertains requiring the motion to be filed within 5 days after a mistrial or verdict. By suspending the rule for those cases affected by the current situation, the court would be allowed to extend the timing as it deems appropriate.

- Sec. 42-54 – Time for Filing Motion for New Trial

The rule pertains to requiring the motion to be filed within 5 days after a verdict. By suspending the rule for those cases affected by the current situation, the court would be allowed to extend the timing as it deems appropriate.

Chapter 43 – Sentencing, Judgment and Appeal

- Sec. 43-24 – Time for Filing Application for Sentence Review

By suspending the rule, it would dispense with the 30 day time requirement for filing an application for sentence review. Because of the limited courthouse access, some filings may not be able to be processed within the time frame allowed.

- Sec. 43-33 –Appointment of Initial Counsel for Appeal by Indigent Defendant

The rule requires the application to be heard within 20 days. By suspending the rule, it will allow the courts to maintain appropriately sized dockets and not require a finding of good cause shown under the circumstances.

- Sec. 43-39 Speedy Trial; Time Limitations

The suspension of the rule would allow the court flexibility in scheduling a trial, in the event that trials are restricted. The suspension would still allow courts the ability to schedule trials as expeditiously as possible.

Chapter 44 – General Provisions

- Sec. 44-10A – Where Presence of Defendant May Be by Means of an Interactive Audiovisual Device

Suspension recommended to permit the Chief Court Administrator to issue orders or directives which allow that during the pendency of the Governor’s public health emergency and civil preparedness emergency declarations of March 10, 2020 a judicial authority may, after giving due consideration to public health concerns, order that any person be present for any proceeding in any criminal matter by means of an interactive audiovisual device if the interests of justice permit such appearance.

- Sec. 44-13. –Scheduling of Proceedings before Trial; Continuances

The rule requires that a continuance shall not exceed two weeks. The suspension of the rule would give the courts the flexibility necessary to maintain appropriately sized dockets and attend to those matters designated as priority cases.

- Sec. 44-14 –Assignments for Plea in Judicial District Court Location

The rule requires that the assignment to a Judicial District shall not exceed two weeks. The suspension of the rule would give the courts the flexibility necessary to maintain appropriately sized dockets and attend to those matters designated as priority cases.

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

The rule requires that within 10 days of filing a not guilty plea, the clerk shall schedule a hearing in the matter. By allowing the suspension of the rule, it will allow the courts to delay scheduling of infractions so that they may focus on those matters designated as priority cases.

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

Suspension of the rule will dispense with the 5 day time requirement imposed on the defendant to file a trial de novo during this time period.