

Minutes of the Meeting
Rules Committee
December 16, 2013

On Monday, December 16, 2013, the Rules Committee met in the Supreme Court courtroom from 2:00 p.m. to 3:22 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR
HON. JON M. ALANDER
HON. MARSHALL K. BERGER, JR.
HON. HENRY S. COHN
HON. NINA F. ELGO
HON. ROBERT E. YOUNG

The Honorable William M. Bright, Jr., the Honorable Kari A. Dooley and the Honorable Robin L. Wilson were not in attendance at this meeting.

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

1. The Committee unanimously approved the minutes of the meeting held on November 18, 2013.

2. The Committee considered a proposal from Timothy Fisher, Dean, UConn Law School, on behalf of three Connecticut Law Schools to amend Section 2-13 to ease admission by waiver of faculty members at accredited law schools in Connecticut, and a letter from Kathleen B. Harrington, Deputy Director, Attorney Services on behalf of the Connecticut Bar Examining Committee and comments from Attorney Michael H. Agranoff on the proposal. Additionally, the Committee considered recently received comments from Connecticut Bar Examining Committee and a letter from Attorney Mark A. Dubois on behalf of Connecticut Bar Association on this proposal.

After brief discussion, the Committee decided to put the matter over to its January meeting to allow the Connecticut Bar Association the opportunity to comment fully on the proposal.

3. The Committee considered a proposal by Judge Henry Cohn to amend Section 14-7A (effective on January 1, 2014) to remove the requirement of a recognizance when an

administrative appeal is served by mail. The Committee also considered comments from the Civil Commission on the proposal.

After discussion, Judge Cohn agreed to draft proposed revisions to Sections 8-4 and 14-7A for the Committee's consideration at its January meeting. Additionally, the Rules Committee will send a letter to the Civil Commission asking them to consider and comment on the possibility of eliminating, in all cases except where required by law, the requirement of a recognizance.

4. The Committee considered a proposal by Attorney Nancy A. Porter, as requested by Judge Bernadette Conway, Chief Administrative Judge for Juvenile Matters, to amend the Practice Book by removing all references to "youth in crisis" to be consistent with the General Statutes.

After discussion, the Committee voted unanimously to submit to public hearing the amendments for this purpose as set forth in Appendix A attached to these minutes.

5. The Committee considered a proposal by Judge Douglas C. Mintz, Chair of the Bench/Bar Foreclosure Committee, to amend Section 6-3 to allow the Certificate of Judgment issued by the clerk to be used in cases under C.G.S. § 49-17, comments thereon by Attorney Denis Caron, a redraft of the proposal, and comments from Attorney Caron on the redraft. Attorney Caron was present and addressed the Committee.

After discussion, the Committee voted unanimously to submit to public hearing the amendment to Section 6-3, as revised by the Committee, as set forth in Appendix B attached to these minutes.

6. The Committee considered a proposal by the Connecticut Bar Association to amend Section 9-9 by adding a new provision dealing with the disposition of residual class action funds. Attorney Mark A. Dubois, President-Elect of the CBA, was present and addressed the Committee, along with Attorney William Clendenen, Vice President of the CBA, and Timothy Shearin, Vice President of the Connecticut Bar Foundation.

After discussion, the Committee voted to send the proposal, as revised by the Committee, to the Civil Commission for review and comment.

7. The Committee considered a letter from Attorney Mark A. Dubois, President-Elect of the CBA, concerning the addition of elder law to Rule 7.4A of the Rules of Professional Conduct as a field of law in which attorneys may be certified as specialists. Attorney Dubois was present

and addressed the Committee, along with Attorneys Sharon Pope and Kevin Brophy of the Elder Law Section of the CBA.

After discussion, the Committee unanimously voted to submit to public hearing the proposal adding elder law to Rule 7.4A of the Rules of Professional Conduct as set forth in Appendix C attached to these minutes.

8. The Committee considered a proposal by Attorney Joanne S. Faulkner concerning the revisions to Section 17-25, and considered comments from the Civil Commission on the proposal.

After discussion, the Committee voted to take no action on the proposal, but instead to let the education process move forward as the revised rule goes into effect.

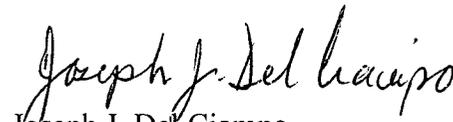
9. The Committee considered a proposal by Attorney Joel Ellis to amend Section 10-39 concerning motions to strike to provide that if there is an objection to the motion, the memorandum in support of the motion can be consulted by the court, and considered comments from Civil Commission on the proposal.

After discussion, the Committee voted to take no action on the proposal.

10. The Committee considered a letter from Attorney Paul Ruszczyk (Small Claims Magistrate) concerning the Rules Committee's response to Attorney Ruszczyk's inquiry regarding Section 24-24 and its 2011 Commentary.

After discussion, the Committee voted to refer the matter to the Commercial Law section of the CBA for review and comment.

Respectfully submitted,


Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A (121613mins)

Sec. 3-4. Filing Appearance

Appearances shall be filed with the clerk of the court location where the matter is pending.

(a) Whenever an appearance is filed in any civil or family action, including appearances filed in addition to or in place of another appearance, a copy shall be mailed or delivered to all counsel and self-represented parties of record.

(b) Whenever an appearance is filed in summary process actions, including appearances filed in addition to or in place of another appearance, the attorney for the defendant, or, if there is no such attorney, the defendant himself or herself, shall mail or deliver a copy of the appearance to the attorney for the plaintiff, or if there is no such attorney, to the plaintiff himself or herself.

(c) Whenever an appearance is filed in delinquency[,] or family with service needs [or youth in crisis] proceedings, including appearances filed in addition to or in place of another appearance, the attorney or guardian ad litem for the respondent, or for any other interested party, shall mail or deliver a copy of the appearance to the prosecutorial official and all other counsel and self-represented parties of record; in child protection proceedings, the attorney or guardian ad litem for the child, respondent, or any other interested party, shall mail or deliver a copy of the appearance to the attorney for the petitioner and to all other counsel and self-represented parties of record.

(d) Whenever an appearance is filed in criminal cases, including appearances filed in addition to or in place of another appearance, the attorney for the defendant shall mail or deliver a copy of the appearance to the prosecuting authority.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

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," ["youth in crisis,"] "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” 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 [or youth in crisis] 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 [or youth in crisis] petition admits or denies the allegations contained in the petition upon being advised of the allegations.

(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.

(o) "Respondent" means a person who is alleged to be a delinquent or a child from a family with service needs, [or a youth in crisis,] 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.

(p) "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) "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.

(r) "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) "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.

CHAPTER 29
RECEPTION AND PROCESSING OF DELINQUENCY[,] AND CHILD FROM FAMILY WITH
SERVICE NEEDS [AND YOUTH IN CRISIS] PETITIONS
AND DELINQUENCY INFORMATIONS

Sec.

29-1. Contents of Delinquency[,] and Family with Service Needs[, and Youth In Crisis]
Petitions or Delinquency Informations

29-1B. Processing of Family with Service Needs [and Youth In Crisis] Petitions

Appendix A (121613) Youth Crisis
Secs 3-4; 26-1; 29-1; 29-1B; 29-2; 30a-1; 30a-2; 30a-5; 31a-14; 31a-16

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to these titles comport with the provisions of the General Statutes.

Sec. 29-1. Contents of Delinquency[,] and Family with Service Needs[, and Youth In Crisis] Petitions or Delinquency Informations

(a) A delinquency petition or information shall set forth in plain, concise and definite language the offense which the petitioner contends the child has committed. The petition or information shall further state the citation of any provision of law which is the basis of the petition or information, together with a statement that the offense occurred on or about a particular date or period of time at a particular location.

(b) A family with service needs [or youth in crisis] petition shall set forth in plain, concise and definite language the specific misconduct which the petitioner contends the child or youth has committed. The petition shall further state the citation of any provision of law which is the basis of the petition, together with a statement that the misconduct occurred on or about a particular date or period of time at a particular location.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 29-1B. Processing of Family with Service Needs [and Youth In Crisis] Petitions

The procedures promulgated in General Statutes [§]§ 46b-149 [and 46b-150f] shall apply. Court process shall be initiated by a petition filed by a probation officer and signed and verified by the juvenile prosecutor.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 29-2. Service of Petitions

(a) Notice of summons, together with a copy of the verified delinquency[,] or family with service needs [or youth in crisis] petition, may be made to the child or youth and parent, guardian or other person having control of the child or youth by service in

accordance with any one of the methods set out in General Statutes § 46b-128. Any notice sent by first class mail shall include a provision informing the party that appearance in court as a result of the notice may subject the appearing party to the jurisdiction of the court. If the child or youth does not appear on the plea date, service shall be made in accordance with General Statutes § 46b-128 or § 46b-149 (d), as appropriate.

(b) Petitions alleging delinquency[,] or family with service needs [or youth in crisis] misconduct shall be served or delivered not less than seven days before the date of the hearing which shall be held not more than thirty days from the date of filing of the petition.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

**CHAPTER 30a
DELINQUENCY[,] AND FAMILY WITH SERVICE NEEDS
[AND YOUTH IN CRISIS] HEARINGS**

Sec. 30a-1. Initial Plea Hearing

(a) The judicial authority shall begin the hearing by determining whether all necessary parties are present and that the rules governing service or notice for nonappearing parties have been complied with, and shall note these facts for the record. The judicial authority shall then inform the parties of the substance of the petition or information.

(b) In age appropriate language, the judicial authority prior to any plea shall advise the child or youth and parent or guardian of the following rights: (1) That the child or youth is not obligated to say anything and that anything that is said may be used against the child or youth. (2) That the child or youth is entitled to the services of an attorney and that if the child or youth and the parent or parents, or guardian are unable to afford an attorney for the child or youth, an application for a public defender or an attorney appointed by the chief public defender should be completed and filed with the office of the public defender or the clerk of the court to request an attorney without cost. (3) That the child or youth will not be questioned unless he or she consents, that the child or youth can consult with an attorney before being questioned and may have an attorney present during questioning, and that the child or youth can stop answering questions at any time. (4) That the child or

youth has the right to a trial and the rights of confrontation and cross-examination of witnesses.

(c) Notwithstanding any prior statement acknowledging responsibility for the acts alleged, the judicial authority shall inquire of the child or youth whether the child or youth presently admits or denies the allegations of the petition or information.

(d) If the judicial authority determines that a child or youth, or the parent, parents or guardian of a child or youth are unable to afford counsel for the child or youth, the judicial authority shall, in a delinquency proceeding, appoint the office of the public defender to represent the child or youth, or in a family with service needs [or youth in crisis] proceeding, notify the chief public defender, who shall assign an attorney to represent the child or youth.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require the provision of an attorney to represent the child, youth or the child's or youth's parent or parents, guardian or other person having control of the child or youth, in any delinquency[,] or family with service needs [or youth in crisis] proceeding, the judicial authority may appoint an attorney to represent any such party and shall notify the chief public defender who shall assign an attorney to represent any such party. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such parent or parents, guardian or other person having control of the child or youth, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the Public Defender Services Commission in providing such counsel, to the extent of their financial ability to do so in accordance with the rates established by the Public Defender Services Commission for compensation of counsel.

(f) If the parent, parents or guardian of the child or youth fails to comply with a court order entered in the best interests of the child or youth and is facing potential imprisonment for contempt of court, such parent or guardian, if unable to afford counsel, shall be entitled to have counsel provided for such parent or guardian of the child or youth in accordance with subsection (e) of this section.

(g) For purposes of determining eligibility for appointment of counsel, the judicial authority shall cause the parent or guardian of a child or youth to complete a written

statement under oath or affirmation setting forth the child's or youth's, or parent's, parents' or guardian's or other person's liabilities and assets, income and sources thereof, and such other information as the office of the public defender or the Public Defender Services Commission shall designate and require on forms adopted by said office of the public defender or Public Defender Services Commission.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 30a-2. Pretrial Conference

(a) When counsel is requested, or responsibility is denied, the case may be continued for a pretrial conference. At the pretrial, the parties may agree that a substitute information will be filed, or that certain charges will be nolleed or dismissed. If the child or youth and parent or guardian subsequently execute a written statement of responsibility at the pretrial conference, or the attorney for the child or youth conveys to the prosecutor an agreement on the adjudicatory grounds, a predispositional study shall be compiled by the probation department and the case shall be assigned for a plea and dispositional hearing.

(b) If a plea agreement has been reached by the parties which contemplates the entry of an admission in a family with service needs [or youth in crisis] case, or a plea of guilty or nolo contendere in a delinquency case, and the recommendation of a particular disposition, the agreement shall be disclosed in open court at the time the plea is offered. Thereupon the judicial authority may accept or reject any agreement, or may defer the decision on acceptance or rejection of the agreement until it has had an opportunity to review the predispositional study.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

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 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 an appropriate disposition upon adjudication of a youth as a youth in crisis in accordance with General Statutes § 46b-150f.]

[(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.

[(i) The judicial authority shall determine the appropriate disposition upon a finding that a youth adjudicated as a youth in crisis has violated a valid court order.]

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

CHAPTER 31a
DELINQUENCY[,] AND FAMILY WITH SERVICE NEEDS [AND
YOUTH IN CRISIS] MOTIONS AND APPLICATIONS

Sec. 31a-14. Physical and Mental Examinations

(a) No physical and/or mental examination or examinations by any physician, psychologist, psychiatrist or social worker shall be ordered by the judicial authority of any child denying delinquent behavior or status as a child or youth from a family with service needs [or youth in crisis] prior to the adjudication, except (1) with the agreement of the child's or youth's parent or guardian and attorney, (2) when the child or youth has executed a written statement of responsibility, (3) when the judicial authority finds that there is a question of the child's or youth's competence to understand the nature of the proceedings or to participate in the defense, or a question of the child or youth having been mentally capable of unlawful intent at the time of the commission of the alleged act, or (4) where the child or youth has been detained and as an incident of detention is administered a physical examination to establish the existence of any contagious or infectious condition.

(b) Any information concerning a child or youth that is obtained during any mental health screening or assessment of such child or youth shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing such screening or assessment. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or youth, or provision of services to the child or youth, or pursuant to General Statutes §§ 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

(c) Upon a showing that the mental health of a child or youth is at issue, either prior to adjudication for the reasons set forth in subsection (a) herein or subsequent thereto as a determinate of disposition, the judicial authority may order a child's or youth's placement for a period not to exceed thirty days in a hospital or other institution empowered by law to treat mentally ill children for study and a report on the child's or youth's mental condition.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 31a-16. Discovery

(a) The child or youth or the juvenile prosecutor shall be permitted pretrial discovery in accordance with subsections (b), (c) and (d) of this section by interrogatory, production, inspection or deposition of a person in delinquency[,] or family with service needs [or youth in crisis] matters if the information or material sought is not otherwise obtainable and upon a finding that proceedings will not be unduly delayed.

(b) Motions or requests for discovery shall be filed with the court in accordance with Section 31a-1. The clerk shall calendar any such motion or request for a hearing. Objections to such motions or requests may be filed with the court and served in accordance with Sections 10-12 through 10-17 not later than ten days of the filing of the motion or request unless the judicial authority, for good cause shown, allows a later filing. Upon its own motion or upon the request or motion of a party, the judicial authority may, after a hearing, order discovery. The judicial authority shall fix the times for filing and for responding to discovery motions and requests and, when appropriate, shall fix the hour, place, manner, terms and conditions of responses to the motions and requests, provided that the party seeking discovery shall be allowed a reasonable opportunity to obtain information needed for the preparation of the case.

(c) Motions or requests for discovery should not be filed unless the moving party has attempted unsuccessfully to obtain an agreement to disclose from the party or person from whom information is being sought.

(d) The provisions of Sections 40-2 through 40-6, inclusive, 40-7 (b), 40-8, through 40-16, inclusive, and 40-26 through 40-58, inclusive, of the rules of procedure in criminal matters shall be applied by the judicial authority in determining whether to grant, limit or set conditions on the requested discovery, issue any protective orders, or order appropriate sanctions for any clear misuse of discovery or arbitrary delay or refusal to comply with a discovery request.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

APPENDIX B (121613mins)

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: The amendment to this section allows the clerk to prepare a decree of foreclosure in connection with matters under General Statutes § 49-17.

APPENDIX C (121613mins)

Rule 7.4A. Certification as Specialist

(a) Except as provided in Rule 7.4, a lawyer shall not state or imply that he or she is a specialist in a field of law unless the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the superior court of this state. Among the criteria to be considered by the Rules Committee in determining upon application whether to approve a board or entity as an agency which may certify lawyers practicing in this state as being specialists, shall be the requirement that the board or entity certify specialists on the basis of published standards and procedures which (1) do not discriminate against any lawyer properly qualified for such certification, (2) provide a reasonable basis for the representation that lawyers so certified possess special competence, and (3) require redetermination of the special qualifications of certified specialists after a period of not more than five years.

(b) Upon certifying a lawyer practicing in this state as being a specialist, the board or entity that certified the lawyer shall notify the statewide grievance committee of the name and juris number of the lawyer, the specialty field in which the lawyer was certified, the date of such certification and the date such certification expires.

(c) A lawyer shall not state that he or she is a certified specialist if the lawyer's certification has terminated, or if the statement is otherwise contrary to the terms of such certification.

(d) Certification as a specialist may not be attributed to a law firm.

(e) Lawyers may be certified as specialists in the following fields of law:

(1) Administrative law: The practice of law dealing with states, their political subdivisions, regional and metropolitan authorities and other public entities including, but not limited to, their rights and duties, financing, public housing and urban development, the rights of public employees, election law, school law, sovereign immunity, and constitutional law; practice before federal and state courts and governmental agencies.

(2) Admiralty: The practice of law dealing with all matters arising under the carriage of goods by sea act (COGSA), Harter Act, Jones Act, and federal and state maritime law including, but not limited to, the carriage of goods, collision and other maritime torts, general average, salvage, limitation of liability, ship financing, ship subsidies, the rights of

injured sailors and longshoremen; practice before federal and state courts and governmental agencies (including the Federal Maritime Commission).

(3) Antitrust: The practice of law dealing with all matters arising under the Sherman Act, Clayton Act, Federal Trade Commission Act, Hart-Scott-Rodino Antitrust Improvements Act and state antitrust statutes including, but not limited to, restraints of trade, unfair competition, monopolization, price discrimination, restrictive practices; practice before federal and state courts and governmental agencies.

(4) Appellate practice: The practice of law dealing with all procedural and substantive aspects of civil and criminal matters before federal and state appeals courts including, but not limited to, arguments and the submission of briefs.

(5) Business Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was engaged in business before the institution of a Chapter 7, 9, or 11 proceeding. This includes, but is not limited to, business liquidations, business reorganizations, and related adversary and contested proceedings.

(6) Child Welfare Law: The practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party.

(7) Consumer Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was not engaged in business before the institution of a Chapter 7, 12, or 13 proceeding. This includes, but is not limited to, liquidations, wage earner plans, family farmers and related adversary and contested proceedings.

(8) Civil rights and discrimination: The practice of law dealing with all matters arising under federal and state law relating to proper treatment in the areas of, among others, public accommodations, voting, employment, housing, administration of welfare and social security benefits; practice before federal and state courts and governmental agencies.

(9) Civil trial practice: The practice of law dealing with representation of parties before federal or state courts in all noncriminal matters.

(10) Commercial transactions: The practice of law dealing with all aspects of commercial paper, contracts, sales and financing, including, but not limited to, secured transactions.

(11) Consumer claims and protection: The practice of law dealing with all aspects of consumer transactions including, but not limited to, sales practices, credit transactions, secured transactions and warranties; all matters arising under the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Magnuson-Moss Act, the Truth in Lending Act, state statutes such as the "Little FTC" acts, and other analogous federal and state statutes.

(12) Corporate and business organizations: The practice of law dealing with all aspects of the formation, operation and dissolution of corporations, partnerships (general and limited), agency and other forms of business organizations.

(13) Corporate finance and securities: The practice of law dealing with all matters arising under the Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisors Act (or the Federal Securities Code, if adopted) and other federal and state securities statutes; financing corporate activities; mergers and acquisitions; practice before the Securities and Exchange Commission and state securities commissions.

(14) Criminal: The practice of law dealing with the prosecution or representation of persons accused of crimes at all stages of criminal proceedings in federal or state courts including, but not limited to, the protection of the accused's constitutional rights.

(15) Elder law: The practice of law involving the counseling and representation of older persons and their representatives relative to the legal aspects of health and long term care planning and financing; public benefits; alternative living arrangements and attendant residents' rights under state and federal law; special needs counseling; surrogate decision making; decision making capacity; conservatorships; conservation, disposition, and administration of the estates of older persons and the implementation of decisions of older persons and their representatives relative to the foregoing with due consideration to the applicable tax consequences of an action, involving, when appropriate, consultation and collaboration with professionals in related disciplines. Lawyers certified in elder law must be capable of recognizing issues that arise during counseling and representation of older persons or their representatives with respect to the following: Abuse, neglect or exploitation of older persons; estate, trust, and tax planning; other probate matters. Elder

law specialists must be capable of recognizing the professional conduct and ethical issues that arise during representation.

[(15)](16) Environmental: The practice of law dealing with all aspects of the regulation of environmental quality by both federal and state governments; control of air pollution, water pollution, noise pollution, toxic substances, pesticides, and civilian uses of nuclear energy; solid waste/ resource recovery; all matters arising under the National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Noise Control Act, Solid Waste Disposal Act, Toxic Substance Control Act and other federal and state environmental statutes; practice before federal and state courts and governmental agencies.

[(16)](17) Estate planning and probate: The practice of law dealing with all aspects of the analysis and planning for the conservation and disposition of estates, giving due consideration to the applicable tax consequences, both federal and state; the preparation of legal instruments in order to effectuate estate plans; administering estates, including tax related matters, both federal and state.

[(17)](18) Family and matrimonial: The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, distribution of assets, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.

[(18)](19) Government contracts and claims: The practice of law dealing with all aspects of the negotiation and administration of contracts with federal and state governmental agencies.

[(19)](20) Immigration and naturalization: The practice of law dealing with obtaining and retaining permission to enter and remain in the United States including, but not limited to, such matters as visas, change of status, deportation and naturalization; representation of aliens before courts and governmental agencies; protection of aliens' constitutional rights.

[(20)](21) International: The practice of law dealing with all aspects of the relations among states, international business transactions, international taxation, customs and trade law and foreign and comparative law.

[(21)](22) Labor: The practice of law dealing with all aspects of employment relations (public and private) including, but not limited to, unfair labor practices, collective

bargaining, contract administration, the rights of individual employees and union members, employment discrimination; all matters arising under the National Labor Relations Act (Wagner Act), Labor Management Relations Act (Taft-Hartley Act), Labor Management Reporting and Disclosure Act (Landrum-Griffin Act), Fair Labor Standards Act, Title VII of The Civil Rights Act of 1964, Occupational Safety and Health Act (OSHA), Employee Retirement Income Security Act (ERISA), other federal statutes and analogous state statutes; practice before the National Labor Relations Board, analogous state boards, federal and state courts, and arbitrators.

~~[(22)]~~(23) Military: The practice of law dealing with the presentation of parties before courts-martial and other military tribunals in disputes arising under the uniform code of military justice; the representation of veterans and their dependents in seeking government benefits due to them on account of military service; handling civil law problems of the military.

~~[(23)]~~(24) Natural Resources: The practice of law dealing with all aspects of the regulation of natural resources such as coal, oil, gas, minerals, water and public lands; the rights and responsibilities relating to the ownership and exploitation of such natural resources.

~~[(24)]~~(25) Patent, trademark and copyright: The practice of law dealing with all aspects of the registration, protection and licensing of patents, trademarks or copyrights; practice before federal and state courts in actions for infringement and other actions; the prosecution of applications before the United States Patent and Trademark Office; counseling with regard to the law of unfair competition as it relates to patents, trademarks and copyrights.

~~[(25)]~~(26) (A) Residential Real Estate: The practice of law dealing with all aspects of real property transactions involving single one-to-four family residential dwellings when the client uses such dwelling or expresses in writing the intent to use such dwelling as the client's primary or other residence including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives, and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, and determination of property rights. (B) Commercial Real Estate: The practice of law dealing with all aspects of real property transactions except for residential real estate as defined in subparagraph (A)

of this subdivision, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.

~~[(26)]~~(27) Taxation: The practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local tax laws and foreign tax laws, including counseling with respect thereto; practice before federal and state courts and governmental agencies.

~~[(27)]~~(28) Workers' Compensation: The practice of law dealing with the representation of parties before federal and state agencies, boards and courts in actions to determine eligibility for workers' compensation, and disability.

COMMENTARY: The amendments to this section add "Elder Law" as a field of law in which a lawyer may be certified and renumber the remaining subdivisions accordingly.