

Minutes of the Meeting  
Rules Committee  
February 26, 2018

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On Monday, February 26, 2018, the Rules Committee met in the Supreme Court courtroom from 2:04 p.m. to 2:49 p.m.

Members in attendance were:

HON. RICHARD A. ROBINSON, CHAIR  
HON. JOAN K. ALEXANDER  
HON. MELANIE L. CRADLE  
HON. KEVIN G. DUBAY  
HON. DONNA NELSON HELLER

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Attorneys Lori A. Petruzzelli and James T. O'Connor of the Judicial Branch's Legal Services Unit. Judge Robert L. Genuario, Judge Sheila A. Ozalis, Judge David M. Sheridan, and Judge Barry K. Stevens were not present.

1. The Committee approved the minutes of the meeting held on January 29, 2018. Judges Alexander and Dubay abstained.

2. The Committee considered a proposal by Attorney Martin R. Libbin, Director of Legal Services, on behalf of Judge Patrick L. Carroll III, Chief Court Administrator, to amend the Practice Book concerning disqualification of judicial authorities.

After discussion, the Committee tabled the matter to its next meeting in order to obtain comments from the Judicial Review Council.

3. The Committee considered a proposal by Judge Alexander to amend the pretrial release provisions in Sections 38-1 through 38-5, to conform those sections to the applicable general statutes.

After discussion, the Committee unanimously voted to submit to public hearing the proposed revisions to Sections 38-1 through 38-5, as set forth in Appendix A, attached to these minutes.

4. The Committee considered a proposal by Ms. Maureen M. Martowska to amend Section 25-60.

After discussion, the Committee unanimously decided to table the matter until the Appellate Court decides *Martowska v. White*, HHD 05-401-7673; AC 39970.

5. The Committee considered comments by Mr. Daniel M. Lynch regarding notice of attorney resignation.

After discussion, the Committee tabled the matter to its next meeting and directed Counsel to work with the Statewide Bar Counsel and the Chief Disciplinary Counsel on an amendment to Section 2-52 to allow for notice to complainants upon resignation of an attorney.

6. The Committee considered a proposal to amend Section 25-5 (b) submitted by Attorney Thomas P. Parrino on behalf of the Rules Committee of the Connecticut Chapter of the American Academy of Matrimonial Lawyers.

After discussion, the Committee tabled the matter to its next meeting and referred the matter to Judge Elizabeth Bozzuto, Chief Administrative Judge, Family Matters, for further study.

7. The Committee considered a proposal by Judge Bernadette Conway, Chief Administrative Judge, Juvenile Matters, to amend Section 34a-21.

After discussion, the Committee unanimously voted to submit to public hearing the proposed amendment to Section 34a-21, as set forth in Appendix B, attached to these minutes.

8. The Committee considered a proposal by the Quinnipiac School of Law Civil Justice Clinic to amend Sections 2-8 and 2-13 regarding qualifications for admission to the bar. Professor Sheila N. Hayre, Visiting Associate Professor of Law, Quinnipiac University School of Law, Ms. Denia Perez, law student, Quinnipiac University School of Law, and Kathleen B. Harrington, Deputy Director, Attorney Services Section, Judicial Branch, were present and addressed the Committee.

After discussion, the Committee voted to submit to public hearing the proposed revisions to Sections 2-8 and 2-13, as set forth in Appendix C, attached to these minutes. The Committee also voted to recommend that, if adopted, this revision should be effective sixty days after promulgation.

Respectfully submitted,



Joseph J. Del Ciampo  
Counsel to the Rules Committee

## Appendix A (022618)

### **Sec. 38-1. Release from Custody; Superior Court Arrest Warrant where Appearance before Clerk Required**

(a) When any person is arrested on a warrant pursuant to General Statutes § 54-2a in which the judicial authority issuing such warrant has indicated that bail should be denied, or has ordered that the arrested person be brought before a clerk or assistant clerk of the superior court, the arresting officer shall, without undue delay, bring such person before the clerk or assistant clerk of the superior court for the geographical area where such offense is alleged to have been committed[,], during the office hours of such clerk[,], and, if such clerk's office is not open, the arresting officer shall, without undue delay, bring such person to a holding facility within the geographical area where such offense is alleged to have been committed or, if there is no such facility available within such geographical area, to the nearest available facility, or the York Correctional Institution. Such clerk or assistant clerk or such person designated by the commissioner of correction shall advise the [defendant]arrested person of the warnings contained in Section 37-3 and, when the judicial authority has not indicated that bail should be denied, shall release the [defendant]arrested person upon his or her [meeting]entering into the conditions of release fixed in the warrant, conditioned that the arrested person shall appear before the superior court having criminal jurisdiction in and for the geographical area to answer to the bench warrant of arrest and information filed in the case. If the [defendant]arrested person was brought to such a facility he or she shall be given the opportunity to contact private counsel or the public defender. If the [defendant]arrested person is not released because of his or her failure to enter into the conditions of release fixed by the judicial authority, or if he or she has been arrested for an offense that is not bailable, the [defendant]arrested person shall be presented before a judicial authority pursuant to Sections 37-1 [and 37-4. If the defendant is not released because he or she has been arrested for an offense which

is not bailable, the defendant shall be presented before a judicial authority pursuant to Section 37-1].

(b) When any person is arrested on a bench warrant of arrest issued by a judicial authority, in which the judicial authority has not indicated that bail should be denied, or has not ordered that the officer making such arrest bring such person before the clerk, the officer making the arrest shall, without undue delay, comply with the provisions of sections 38-2 and 38-3 in setting the conditions of release for such person.

COMMENTARY: The revisions to this rule make the rule consistent the correlating statute, General Statutes § 54-64b, particularly to include the requirement that any release be conditioned on the arrested person's appearance in court.

**Sec. 38-2. Release Following Any Other Arrest; Release by Law Enforcement Officer[s] or Probation Officer Serving Warrant**

(a) Except in cases of arrest pursuant to a warrant in which the judicial authority has indicated that bail should be denied or has ordered that the arrested person be brought before a clerk or assistant clerk of the superior court, when any person is taken into custody for a bailable offense that person shall be brought promptly to a police station or other lawful place of detention, where, as quickly as possible under the circumstances, he or she shall be informed or warned in writing of his or her rights under Section 37-3 and of his or her right to be interviewed concerning the terms and conditions of release. Unless the [defendant] arrested person waives or refuses such interview, a law enforcement officer or a probation officer serving a violation of probation warrant shall promptly interview that person to obtain information relevant to the terms and conditions of his or her release from

custody, and shall seek independent verification of such information where necessary. At the request of the [defendant] arrested person, his or her counsel may be present during such interview. No statement made by the arrested person in response to any question during the interview related to the terms and conditions of release shall be admissible as evidence against the arrested person in any proceeding arising from the incident for which the conditions of release were set. After such a waiver, refusal or interview, the law enforcement officer or probation officer shall promptly order release of the [defendant] arrested person upon his or her execution of a written promise to appear or his or her posting of a bond with or without surety in such amount as may be set by such officer, except that no condition of release set by the [court or a judge thereof] judicial authority may be modified by such officer, and no person shall be released upon the execution of a written promise to appear or the posting of a bond without surety if the person is charged with a family violence crime and, in the commission of such crime, the person used or threatened the use of a firearm. If the [defendant] arrested person has not posted bail, the officer shall immediately notify a bail commissioner. The officer may administer such oaths as are necessary in the taking of promises or bonds.

(b) If the arrested person is charged with a family violence crime, and the police officer or probation officer does not intend to impose nonfinancial conditions of release pursuant to this subsection, the police officer or probation officer shall promptly order the release of such person pursuant to the procedure set forth in subsection (a) of this section. If the arrested person is not so released, the officer shall make reasonable efforts to contact a bail commissioner or an intake, assessment, and referral specialist immediately. If, after making such reasonable efforts, the officer is unable to contact a bail commissioner or an intake, assessment, and referral specialist, or the officer makes contact, but the bail commissioner or intake assessment, and referral specialist is unavailable promptly

to perform his or her duties pursuant to Section 38-3, the officer shall, order the release of the arrested person pursuant to the procedure set forth in subsection (a) of this section, and may impose nonfinancial conditions of release, which may require the arrested person to do one or more of the following:

- (1) Avoid all contact with the alleged victim of the crime;
- (2) Comply with specified restrictions on his or her travel, association, or place of abode that are directly related to the protection of the alleged victim of the crime;
- (3) Not use or possess a dangerous weapon, intoxicant or controlled substance.

Any nonfinancial conditions of release imposed pursuant to this subsection shall remain in effect until the arrested person is presented before the Superior Court. On such date, the judicial authority shall conduct a hearing pursuant to General Statutes § 46b-38c, at which the arrested person is entitled to be heard with respect to the issuance of a protective order.

An officer imposing nonfinancial conditions of release shall, on a form prescribed by the Office of the Chief Court Administrator, indicate such conditions and state and swear to:

- (1) The efforts that were made to contact a bail commissioner;
- (2) The specific factual basis relied upon by the officer to impose the nonfinancial conditions of release; and
- (3) If the arrested person was non-English speaking, that the services of a translation service or interpreter were used.

A copy of this form shall be provided to the arrested person immediately, and a copy of this form shall also be provided to counsel for the arrested person at arraignment.

(c) No officer shall set the terms and conditions of an arrested person's release, set a bond for an arrested person, or release an arrested person from

custody under this section unless the officer has first checked the National Crime Information Center (NCIC) computerized index of criminal justice information to determine if the arrested person is listed in the index.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 54-63c, particularly to include Probation Officers in the arresting officers governed by this provision, specify the procedure for addressing persons arrested for family violence crimes, and include the NCIC check requirement before releasing any arrested person under this provision.

**Sec. 38-3. – Release by Bail Commissioner or Intake, Assessment, and Referral Specialist**

(a) Upon notification by a law enforcement officer that an [defendant]arrested person has not posted bail, a bail commissioner or an intake, assessment, and referral specialist shall promptly conduct an interview and investigation and, based upon release criteria established by the [chief bail commissioner]Court Support Services Division, shall, except as provided in subsection (c) of this section, promptly order the release of the [defendant]arrested person upon the first of the following conditions of release found sufficient to ensure [the defendant's]his or her appearance in court [and to reasonably ensure that the safety of any other person will not be endangered]:

(1) The [defendant's]arrested person's execution of a written promise to appear without special conditions;

(2) The [defendant's]arrested person's execution of a written promise to appear with any of the nonfinancial conditions specified in subsection (b) of this section;

(3) The [defendant's]arrested person's execution of a bond without surety in no greater amount than necessary;



(4) The [defendant's]arrested person's execution of a bond with surety in no greater amount than necessary.

If the arrested person is unable to meet the conditions of release ordered, the bail commissioner or intake, assessment, and referral specialist shall inform the court in a report prepared pursuant to subsection (d) of this section.

(b) In addition to or in conjunction with any of the conditions enumerated in [subdivisions (1) to (4), inclusive, of] subsection (a) of this section, the bail commissioner or intake, assessment, and referral specialist may impose nonfinancial conditions of release, which may require that the [defendant]arrested person do any of the following:

- (1) Remain under the supervision of a designated person or organization;
- (2) Comply with specified restrictions on his or her travel, association, or place of abode;
- (3) Not engage in specified activities, including the use or possession of a dangerous weapon, an intoxicant, or a controlled substance;
- (4) Avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense; or
- (5) Satisfy any other condition that is reasonably necessary to ensure [the]his or her appearance [of the defendant] in court [and that the safety of any other person will not be endangered].

Any of the conditions imposed under subsection (a) of this section and this subsection [by the bail commissioner] shall be effective until the appearance of such person in court.

(c) No person shall be released upon the execution of a written promise to appear or the posting of a bond without surety if the person is charged with a family violence crime and, in the commission of such crime, the person used or threatened the use of a firearm.

[(c)](d) The bail commissioner shall prepare for review by the judicial authority an interview record and a written report for each person interviewed. The written report shall contain the information obtained during the interview and verification process, the [defendant's]arrested person's prior criminal record, if possible, the determination or recommendation of the bail commissioner concerning terms and conditions of release, and, where applicable, a statement that the [defendant]arrested person was unable to meet the conditions of release ordered by the bail commissioner or the intake, assessment, and referral specialist.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 54-63d, particularly to include Intake, Assessment, and Referral Specialists in the officials governed by this provision, require a report to the court when an arrested person is not released under this provision, and limit the release of a person arrested for a family violence crime that involved the use or threatened use of a firearm.

#### **Sec. 38-4 – Release by Judicial Authority**

(a) Except as provided in subsection (c) of this section, [W]when any defendant is presented before a judicial authority, such authority shall, in bailable offenses, promptly order the release of such [person]defendant upon the first of the following conditions of release found sufficient to reasonably [to assure] ensure the [person's]defendant's appearance in court [and, when the crimes charged or the facts and circumstances brought to the attention of the judicial authority suggest that the defendant may pose a risk to the physical safety of any person, that the safety of any person will not be endangered]:

(1) The defendant's execution of a written promise to appear without special conditions;

(2) The defendant's execution of a written promise to appear with nonfinancial conditions;

(3) The defendant's execution of a bond without surety in no greater amount than necessary;

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to 10 percent of the amount of the surety bond set, pursuant to Section 38-8;

(5) The defendant's execution of a bond with surety in no greater amount than necessary[;].

[(6) The defendant's execution of a cash bond and his or her deposit with the clerk of the court of cash in the amount of the bond set by the judicial authority in no greater amount than necessary.]

In no event shall the judicial authority prohibit a bond from being posted by surety.

[In addition to or in conjunction with any of the conditions of release enumerated in this subsection, the judicial authority may impose one or more nonfinancial conditions of release pursuant to subsection (d).]

(b) The judicial authority may, in determining what conditions of release will reasonably [assure] ensure the appearance of the defendant in court pursuant to subsection (a) of this section, consider the following factors [(1) through (7) below, and, when the crimes charged or the facts and circumstances brought to the attention of the judicial authority suggest that the defendant may pose a risk to the physical safety of any person, the judicial authority may also consider factors (8) through (10) below]:

(1) The nature and circumstances of the offense[, including the weight of the evidence against the defendant];

(2) The defendant's record of previous convictions;

(3) The defendant's past record of appearance in court [after being admitted to bail];

(4) The defendant's family ties;

(5) The defendant's employment record;

(6) The defendant's financial resources, character, and mental condition;

(7) The defendant's community ties;

[(8) The defendant's history of violence;

(9) Whether the defendant has previously been convicted of similar offenses while released on bond; and

(10) The likelihood based upon the expressed intention of the defendant that he or she will commit another crime while released.]

(c) When any defendant charged with a serious felony enumerated in General Statutes § 54-64a (b) (1) or a family violence crime is presented before a judicial authority, such authority shall, in bailable offenses, promptly order the release of such defendant upon the first of the following conditions of release found sufficient to reasonably ensure the defendant's appearance in court and that the safety of any other person will not be endangered:

(1) The defendant's execution of a written promise to appear without special conditions;

(2) The defendant's execution of a written promise to appear with nonfinancial conditions;

(3) The defendant's execution of a bond without surety in no greater amount than necessary;

(4) The defendant's deposit with the clerk of the court of an amount of cash equal to 10 percent of the amount of the surety bond set, pursuant to Section 38-8;

(5) The defendant's execution of a bond with surety in no greater amount than necessary.

In no event shall the judicial authority prohibit a bond from being posted by surety.

(d) The judicial authority may, in determining what conditions of release will reasonably ensure the appearance of the defendant in court and that the safety of any other person will not be endangered pursuant to subsection (c) of this section, consider the following factors:

- (1) The nature and circumstances of the offense;
- (2) The defendant's record of previous convictions;
- (3) The defendant's past record of appearance in court after being admitted to bail;
- (4) The defendant's family ties;
- (5) The defendant's employment record;
- (6) The defendant's financial resources, character, and mental condition;
- (7) The defendant's community ties;
- (8) The number and seriousness of the charges pending against the defendant;
- (9) The weight of evidence against the defendant;
- (10) The defendant's history of violence;
- (11) Whether the defendant has previously been convicted of similar offenses while released on bond; and
- (12) The likelihood based upon the expressed intention of the defendant that he or she will commit another crime while released.

When imposing conditions of release under subsection (c) of this section, the court shall state for the record any factors under subsection (d) of this section that it considered and the findings that it made as to the danger, if any, that the defendant might pose to the safety of any other person upon the defendant's release that caused the court to impose the specific conditions of release that it imposed.

(e) If the defendant is charged with no offense other than a misdemeanor, the court shall not impose financial conditions of release on such person unless:

(1) The defendant is charged with a family violence crime;

(2) The defendant requests such financial conditions; or

(3) The judicial authority makes a finding on the record that there is a likely risk that:

(A) The defendant will fail to appear in court, as required;

(B) The defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror; or

(C) The defendant will engage in conduct that threatens the safety of himself or herself or another person.

In making such finding, the judicial authority may consider past criminal history, including any prior record of failing to appear as required in court that resulted in any conviction for Failure to Appear in the First Degree, in violation of General Statutes § 53a-172, or any conviction during the previous ten years for Failure to Appear in the Second Degree, in violation of General Statutes § 53a-172, and any other pending criminal cases.

[(c)](f) In addition to or in conjunction with any of the conditions enumerated in [subdivisions (1) to (6) of] subsections (a) or (c) of this section, the judicial authority may, when it has reason to believe that the defendant is drug-dependent and where necessary, reasonable, and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such defendant.

[(d)](g) If the judicial authority determines that a nonfinancial condition of release should be imposed in addition to or in conjunction with any of the

conditions enumerated in [subdivisions (1) to (6) of] subsections (a) or (c) of this section, the judicial authority shall order the pretrial release of the defendant subject to the least restrictive condition or combination of conditions that the judicial authority determines will reasonably [assure] ensure the appearance of the defendant in court and, [when the crimes charged or the facts and circumstances brought to the attention of the judicial authority suggest that the defendant may pose a risk to the physical safety of any person,] when the defendant is charged with a felony enumerated in General Statutes § 54-64a (b) (1) or a family violence crime, that the safety of any person will not be endangered, which conditions may include an order that he or she do one or more of the following:

- (1) Remain under the supervision of a designated person or organization;
- (2) Comply with specified restrictions on his or her travel, association, or place of abode;
- (3) Not engage in specified activities, including the use or possession of a dangerous weapon, an intoxicant, or a controlled substance;
- (4) Provide sureties of the peace pursuant to General Statutes § 54-56f under supervision of a designated bail commissioner or intake, assessment, and referral specialist;
- (5) Avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;
- (6) Maintain employment or, if unemployed, actively seek employment;
- (7) Maintain or commence an educational program;
- (8) Be subject to electronic monitoring; or
- (9) Satisfy any other condition that is reasonably necessary to [assure] ensure the appearance of the defendant in court and that the safety of any other person will not be endangered.

The judicial authority shall state on the record its reasons for imposing any such nonfinancial condition.

[(e)] The judicial authority shall state on the record its reasons for imposing any such nonfinancial condition.]

[(f)](h) The judicial authority may require that the defendant subject to electronic monitoring pursuant to subsection [(d)](g) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the judicial authority finds that the defendant subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, it shall waive such costs.

(i) If any defendant is not released, the judicial authority shall order the defendant committed to the custody of the Commissioner of Correction until he or she is released or discharged in due course of law.

COMMENTARY: The revisions to this rule make the rule consistent with the correlating statute, General Statutes § 54-64a, as amended by Public Acts 2017, No. 17-145, § 1 and Public Acts, Spec. Sess., June, 2017, No. 17-2, § 205. Specifically, the revisions include the limitation on setting cash-only bonds, specify the procedures for setting conditions of release for individuals charged with no crime other than a misdemeanor, specify the procedures for setting conditions of release for an individuals charged with serious felonies and family violence crimes, and specify the procedure for committing defendants not released under this provision to the Commissioner of Corrections.

#### **Sec. 38-5. – Release by Correctional Officials**

Any person who has not made bail shall be detained in a correctional facility and shall be released from such institution upon entering into a recognizance, with sufficient surety, or upon posting cash bail as provided in Sections 38-7 and 38-9 for his or her appearance before the court having cognizance of the offense, which



are to be taken by any person designated by the commissioner of correction at such institution where such person is detained. [Such]The person so designated shall deliver the recognizance or cash bail to the clerk of the appropriate court before the opening of such court on the first court day thereafter.

COMMENTARY: The revisions to this rule address a minor grammatical issue.

## Appendix B (022618)

### Sec. 34a-21. Court-Ordered Evaluations

(a) The judicial authority, after hearing on a motion for a court-ordered evaluation or after an agreement has been reached to conduct such an evaluation, may order a mental or physical examination of a child or youth. The judicial authority after hearing or after an agreement has been reached may also order a thorough physical or mental examination of a parent or guardian whose competency or ability to care for a child or youth is at issue.

(b) The judicial authority shall select and appoint an evaluator qualified to conduct such assessments, with the input of the parties. All expenses related to the court-ordered evaluations shall be the responsibility of the petitioner; however the party calling the evaluator to testify will bear the expenses of the evaluator related to testifying.

(c) At the time of appointment of any court appointed evaluator, counsel and [the court services officer] a representative of the court shall complete the evaluation form and agree upon appropriate questions to be addressed by the evaluator and materials to be reviewed by the evaluator. If the parties cannot agree, the judicial authority shall decide the issue of appropriate questions to be addressed and materials to be reviewed by the evaluator. A representative of the court shall contact the evaluator and arrange for scheduling and for delivery of the referral package.

(d) Any party who wishes to alter, to update, to amend or to modify the initial terms of referral shall seek prior permission of the judicial authority. There shall be no ex parte communication with the evaluator by counsel prior to completion of the

evaluation except that the evaluator conducting a competency evaluation of a parent or guardian may have ex parte communication with said parent or guardian prior to the completion of the competency evaluation.

(e) After the evaluation has been completed and filed with the court, counsel may communicate with the evaluator subject to the following terms and conditions:

(1) Counsel shall identify themselves as an attorney and the party she or he represents;

(2) Counsel shall advise the evaluator that with respect to any substantive inquiry into the evaluation or opinions contained therein, the evaluator has the right to have the interview take place in the presence of counsel of his/her choice, or in the presence of all counsel of record;

(3) Counsel shall have a duty to disclose to other counsel the nature of any ex parte communication with the evaluator and whether it was substantive or procedural. The disclosure shall occur within a reasonable time after the communication and prior to the time of the evaluator's testimony;

(4) All counsel shall have the right to contact the evaluator and discuss procedural matters relating to the time and place of court hearings or evaluation sessions, the evaluator's willingness to voluntarily attend without subpoena, what records are requested, and the parameters of the proposed examination of the evaluator as a witness.

(f) Counsel for children, youths, parents or guardians may move the judicial authority for permission to disclose court records for an independent evaluation of their own client. Such evaluations shall be paid for by the moving party and shall

not be required to be disclosed to the judicial authority or other parties, unless the requesting party, upon receipt of the evaluation report, declares an intention to introduce the evaluation report or call the evaluator as a witness at trial.

COMMENTARY: The changes to this section clarify existing practice and provide consistency of terms; and specify a necessary exception to the general prohibition against ex parte communication with an evaluator.

## **Appendix C (022618)**

### **Sec. 2-8. Qualifications for Admission**

To entitle an applicant to admission to the bar, except under Sections 2-13 through 2-15 of these rules, the applicant must satisfy the committee that:

(1) The applicant is a citizen of the United States or an alien lawfully residing in the United States which shall include an individual authorized to work lawfully in the United States.

(2) The applicant is not less than eighteen years of age.

(3) The applicant is a person of good moral character, is fit to practice law, and has either passed an examination in professional responsibility administered under the auspices of the bar examining committee or has completed a course in professional responsibility in accordance with the regulations of the bar examining committee. Any inquiries or procedures used by the bar examining committee that relate to physical or mental disability must be narrowly tailored and necessary to a determination of the applicant's current fitness to practice law, in accordance with the Americans with Disabilities Act and amendment twenty-one of the Connecticut constitution, and conducted in a manner consistent with privacy rights afforded under the federal and state constitutions or other applicable law.

(4) The applicant has met the educational requirements as may be set, from time to time, by the bar examining committee.

(5) The applicant has filed with the administrative director of the bar examining committee an application to take the examination and for admission to the bar, all in accordance with these rules and the regulations of the committee, and has paid such application fee as the committee shall from time to time determine.

(6) The applicant has passed an examination in law in accordance with the regulations of the committee.

(7) The applicant has complied with all of the pertinent rules and regulations of the committee.

(8) As an alternative to satisfying the committee that the applicant has met the committee's educational requirements, the applicant who meets all the remaining requirements of this section may, upon payment of such investigation fee as the committee shall from time to time determine, substitute proof satisfactory to the committee that: (A) the applicant has been admitted to practice before the highest court of original jurisdiction in one or more states, the District of Columbia or the commonwealth of Puerto Rico or in one or more district courts of the United States for ten or more years and at the time of filing the application is a member in good standing of such a bar; (B) the applicant has actually practiced law in such a jurisdiction for not less than five years during the seven year period immediately preceding the filing date of the application; and (C) the applicant intends, upon a continuing basis, actively to practice law in Connecticut and to devote the major portion of the applicant's working time to the practice of law in Connecticut.

COMMENTARY: The primary intent of the change to this section is to clarify that status as a *Deferred Action for Childhood Arrivals* (DACA) beneficiary meets the first qualification for admission to the Connecticut Bar, that is, that the applicant is a citizen or alien lawfully residing in the United States.

**Sec. 2-13. Attorneys of Other Jurisdictions; Qualifications and Requirements for Admission**

(a) Any member of the bar of another state or territory of the United States or the District of Columbia, who, after satisfying the state bar examining committee that his or her educational qualifications are such as would entitle him or her to take the examination in Connecticut, and that (i) at least one jurisdiction in which he or she is a member of the bar is reciprocal to Connecticut in that it would admit a member of the bar of Connecticut to its bar without examination under provisions similar to those set out in this section or (ii) he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction, shall satisfy the state bar examining committee that he or she (1) is of good moral character, is fit to practice law, and has either passed an examination in professional responsibility administered under the auspices of the bar examining committee or has completed a course in professional responsibility in accordance with the regulations of the bar examining committee; (2) has been duly licensed to practice law before the highest court of a reciprocal state or territory of the United States or in the District of Columbia if reciprocal to Connecticut, or that he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction and (A) has lawfully engaged in the

practice of law as the applicant's principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, or (B) if the applicant has taken the bar examinations of Connecticut and failed to pass them, the applicant has lawfully engaged in the practice of law as his or her principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, provided that such five years of practice shall have occurred subsequent to the applicant's last failed Connecticut examination; (3) is a citizen of the United States or an alien lawfully residing in the United States which shall include an individual authorized to work lawfully in the United States; (4) intends, upon a continuing basis, to practice law actively in Connecticut, may be admitted by the court as an attorney without examination upon written application and the payment of such fee as the examining committee shall from time to time determine, upon compliance with the following requirements: Such application, duly verified, shall be filed with the administrative director of the bar examining committee and shall set forth the applicant's qualifications as hereinbefore provided. There shall be filed with such application the following affidavits: Affidavits from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law and supporting, to the satisfaction of the state bar examining committee, his or her practice of law as defined under (2) of this subsection; affidavits from two members of the bar of Connecticut of at least five years' standing, certifying that the applicant is of good moral character and is fit to practice law; and an affidavit from the applicant, certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred, or has ever resigned from the practice



of law, and, if so, setting forth the circumstances concerning such action. Such an affidavit is not required if it has been furnished as part of the application form prescribed by the state bar examining committee.

(b) For the purpose of this rule, the "practice of law" shall include the following activities, if performed after the date of the applicant's admission to the jurisdiction in which the activities were performed, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

- (1) representation of one or more clients in the practice of law;
- (2) service as a lawyer with a state, federal, or territorial agency, including military services;
- (3) teaching law at an accredited law school, including supervision of law students within a clinical program;
- (4) service as a judge in a state, federal, or territorial court of record;
- (5) service as a judicial law clerk;
- (6) service as authorized house counsel;
- (7) service as authorized house counsel in Connecticut before July 1, 2008, or while certified pursuant to Section 2-15A; or
- (8) any combination of the above.

COMMENTARY: The primary intent of the change to this section is to clarify that status as a *Deferred Action for Childhood Arrivals* (DACA) beneficiary meets the first

qualification for admission to the Connecticut Bar, that is, that the applicant is a citizen or alien lawfully residing in the United States.