



RC ID # 2023-008 a

STATE OF CONNECTICUT
SUPERIOR COURT

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March 2, 2023

Hon. Andrew J. McDonald
Chair of the Rules Committee of the Superior Court
Connecticut Supreme Court
231 Capitol Avenue
Hartford, CT 06106

RE: Proposal to amend various Practice Book Sections regarding the Pathways
process in Family Matters

Dear Justice McDonald:

I am writing to submit to your committee a set of proposed amendments to Section 25 of the Practice Book to reflect the Pathways process used in family matters. The proposed amendments accompany this letter.

By way of background, prior to the COVID-19 pandemic the Judicial Branch and the Family Division had been working with the National Center for State Courts to redesign our family court process in ways that national studies and experts have found to benefit families. The goal for the new process was to improve outcomes for families by assessing the resources needed for each case at an early stage and placing the case on an appropriate pathway to resolution. The process we designed, which we came to call "Pathways," seeks to promote cooperative resolutions rather than lengthy litigation, and to reduce the number of court appearances required over the life of a case while making each appearance more productive. A brief description of the Pathways process is also included with this letter.

By early 2020, we had completed the Pathways model to the point where we were ready to review and discuss it with other stakeholders. We planned to use the rest of the year to do outreach to the bar and the public, to familiarize them with Pathways and to seek input that we could use to refine and improve it before implementation. We also planned to use the remainder of 2020 to conduct training of judges and court staff, with the goal of implementing Pathways in early 2021.

The pandemic severely impacted our timetable, delaying some parts of our plan and accelerating others. One feature of the new process, the elimination of the family short calendar, happened ahead of schedule in March 2020, when public health conditions and the restrictions on court activities made impossible the large gatherings of parties, attorneys, and court staff that were required to conduct short calendar. The cessation of family short calendar, and the subsequent need to hold proceedings remotely, required new methods of scheduling and conducting the work of the family court.

Faced with the choice of waiting to be able to resume in-person short calendar – a wait, as it developed, that would have been measured in years - or implementing the features of Pathways as they became feasible under pandemic conditions, the Family Division chose the latter as the best way to attend to as many matters as possible under difficult circumstances.

The result is that Pathways was rolled out under less-than-ideal conditions. We did not have the opportunity for the prior bar and public outreach and consultation that we had planned. Judges and court staff had to be trained in the new process as it was being implemented, at a time when in-person gatherings for training were not possible. Public education was limited to postings and videos on the Judicial Branch website. The elements of the process were put in place as and when our changing technology allowed, rather than in the most logical and efficient order. Finally, as valuable as our new capability to conduct remote proceedings was, virtual proceedings could not be conducted with the same volume, efficiency, or productivity as in-person proceedings. These limitations, combined with the shortage of judges at the time, caused significant delays in scheduling hearings.

It was not until the beginning of 2022 that we were able to resume holding most family court proceedings in person and to begin doing Pathways the way it was intended. Despite the omicron wave of COVID-19 in January and February, which caused disruptions in scheduling, and the continuing shortage of judges that wasn't alleviated until the confirmation of new judges in the spring, the data for 2022 provide the first full calendar year picture of the performance of Pathways under conditions approaching normal. The available data demonstrates the success of Pathways even at this early stage:

1. As the result of the pandemic's extended impact on court operations, the number of pending family cases statewide had grown to 9,539 on October 15, 2021, shortly before conditions allowed for the implementation of Pathways primarily using in-person proceedings. By September 20, 2022, the pending caseload had been reduced to 7,479, a decrease of 21.6%.
2. In 2022, the family courts disposed of more family cases (i.e., actions for dissolution of marriage, legal separation, annulment, custody and visitation) than in any single year since 2016.

3. The courts disposed of about 2,000 more family cases in 2022 compared to 2019, the last year before the pandemic – an increase of 13%.
4. The number of cases the family courts disposed of in 2022 was about 1,400 higher than the average of the three years before the pandemic (2017, 2018 and 2019) – an increase of 9%.

The statistics show that goals of Pathways are already being met, even as the various stakeholders continue to acclimate to it. The process is helping more litigants to the final resolution of their cases, while reducing the number of times parties must come to court to resolve their cases by eliminating the former short calendar system of scheduling a separate court date for every new motion filed. The differential case management provided by Pathways, giving each case the resources it needs and the appropriate path to ultimate resolution, allows parties who need little help from the court to resolve their cases quickly, and conserves judicial resources for the cases that need them most.

Since the beginning of the pandemic, we have met regularly with representatives of the family bar to hear their concerns, provide information about next steps for dissemination to their colleagues, and make changes and adjustments to the process in light of their suggestions. Probably the most significant change in the process as the result of our discussions with the bar occurred in mid-2022, when we added Motion Dockets in each court. These dockets allow for the scheduling of time-sensitive motions much more efficiently than the process initially used in Pathways. Attorneys and family judges have reported that the Motion Dockets are working very well for their intended purpose.

Beginning in the fall of 2022, our discussions with the bar group turned to the drafting of Practice Book amendments to incorporate the Pathways process into the rules. Meetings continued between the Judicial Branch, represented by the Chief Justice, Chief Court Administrator, Deputy Chief Court Administrator, and myself as Chief Administrative Judge of the Family Division, and a bar group that included representatives of the Connecticut Bar Association, the Family Law Section of the Connecticut Bar Association, the American Academy of Matrimonial Lawyers, and legal aid. The Branch completed a draft of our proposed amendments in mid-September and provided it to the bar group at that time. We then met with the group on September 19, 2022, to hear their preliminary impressions, and we made several changes to our draft based on that discussion.

Following the meeting, on September 26, 2022, we sent the bar group a revised draft incorporating the changes we had made as the result of the discussion at the meeting. We agreed to meet again near the end of October, to give the bar representatives a month to discuss the draft with their respective constituents and obtain and report their feedback.

We next met with the group on October 26, 2022, to hear the further comments of the bar members based on their discussions with their respective memberships. At the meeting, the family bar group requested additional time to compile written suggestions and comments on our proposed amendments. It was agreed that we would wait another month, until November 25, 2022, to receive their comments and suggestions. However,

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as that date approached, the bar group contacted us to indicate that they would not be able to provide their comments by the agreed date. The attorneys requested additional time, until early February 2023, to provide written comments and suggestions about our proposed amendments. We agreed to wait until February 10, 2023, for their comments, before submitting any proposals to your committee.

On that date, we received a letter from the bar group that included attachments with their suggested changes to our proposed amendments. Their suggestions came in the form of two alternatives which they entitled Schedule A and Schedule B, indicating that they ideally would like to see Schedule A implemented but were also providing Schedule B for our consideration.

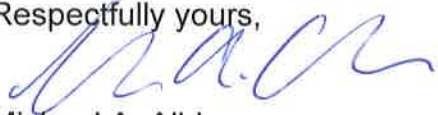
Nevertheless, we reviewed both Schedule A and Schedule B, and found much in both that we agree would enhance our proposal. There are many suggestions in both schedules that we have adopted as proposed. There are others that we have accepted in concept but addressed with alternative language that we believe is more consistent with the remaining provisions and the goals of Pathways. Finally, there were a few suggestions that we did not feel we could adopt without seriously impacting the achievement of the purposes of Pathways.

I am including with this letter the entirety of the communication we received from the bar group on February 10, 2023, including their cover letter and Schedules A and B. Also included is our itemized response to each of their proposals, indicating whether, how and where we changed our draft proposal in response. As to the few suggestions we did not incorporate into our proposal, we have explained our reasons.

During the almost five months of the bar group's review of our draft and discussions with us, we have remained mindful of an even larger group of family court stakeholders: the family court litigants, representing a majority, who do not have attorneys. Pathways is proving to be very beneficial to these litigants, as we provide them with assistance and services at a much earlier point in the process and make their required court appearances less frequent but more meaningful. We have considered changes and suggestions with respect to their impact not only on the bar but also on self-represented litigants.

Please do not hesitate to contact me if there are any questions. I would be happy to attend the next meeting of the Rules Committee about this request. Thank you very much.

Respectfully yours,



Michael A. Albis
Chief Administrative Judge, Family Division

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Enclosures:

Proposed amendments to Practice Book Section 25
Narrative description: "The Pathways Process in Family Matters"
Letter from family bar representatives dated 2/10/23
Schedules A and B to letter from family bar representatives dated 2/10/23
Responses to Bar Suggestions on Pathways

cc: Chief Justice Richard Robinson
Hon. Elizabeth Bozzuto, Chief Court Administrator
Hon. Anna Ficeto, Deputy Chief Court Administrator
Atty. Joseph J. Del Ciampo, Legal Services
Atty. Jillian Greenbacker, Legal Services
Atty. Daniel J. Horgan, President, Connecticut Bar Association (CBA)
Atty. Kenneth E. Caisse, Chair, CBA Family Law Section
Atty. Aidan R. Welsh, Vice-Chair, CBA Family Law Section
Atty. Bonnie L. Amendola, President, American Academy of Matrimonial
Lawyers, Connecticut Chapter
Atty. Margot Kenefick Burkle, New Haven Legal Assistance Association, Inc.
Atty. Amy Calvo MacNamara, CBA Family Law Section

Proposed Practice Book Rule Revisions with Commentary

Sec. 25-1. Definitions Applicable to Proceedings on Family Matters

(a) The following shall be “family matters” within the scope of these rules: Any actions brought pursuant to General Statutes § 46b-1, including, but not limited to, dissolution of marriage or civil union, legal separation, dissolution of marriage or civil union, alimony, support, custody, and change of name incident to dissolution of marriage or civil union, habeas corpus and other proceedings to determine the custody and visitation of children except those which are properly filed in the Superior Court as juvenile matters, the establishing of [paternity] parentage, enforcement of foreign matrimonial or civil union judgments, actions related to prenuptial or pre-civil union and separation agreements and to matrimonial or civil union decrees of a foreign jurisdiction, actions brought pursuant to General Statutes § 46b-15, custody proceedings brought under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and proceedings for enforcement of support brought under the provisions of the Uniform Interstate Family Support Act.

(b) Whenever a rule applicable to family matters as defined in subsection (a) of this Section provides for the scheduling of a motion or other matter on the short calendar, the rule may be satisfied by the scheduling of the motion or other matter for a Case Date, Motion Docket, or other court event, so long as any time periods specified in the rule for the scheduling of the matter are observed.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 26, 2006, to take effect Jan. 1, 2007; amended June 12, 2015, to take effect Jan. 1, 2016.)

Commentary: This Section has been amended to conform to the Connecticut Parentage Act, which has broadened matters of parentage in Connecticut beyond that of paternity. A subsection (b) was added to explain that rules applicable to family matters that require scheduling of a motion on a short calendar are satisfied by the scheduling of the motion for a Case Date, Motion Docket or other court event.

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

Every application in an action for custody of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. The application shall comply with Section 25-5. Such application shall be commenced by an order to show cause. Upon presentation of the application and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application should not be granted. The application, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing or other court event, which shall not be [held] more than thirty-five days from the filing of the application.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 26, 2000, to take effect Jan. 1, 2001; amended June 26, 2006, to take effect Jan. 1, 2007.)

***APPENDIX NOTE:** The Rules Committee of the Superior Court enacted, and the judges of the Superior Court subsequently adopted, certain changes to the provisions of this rule in response to the public health and civil

preparedness emergencies declared on March 10, 2020, and renewed on September 1, 2020, and January 26, 2021. See Appendix of Section 1-9B Changes.

Commentary: A disputed custody action is often not ready for a hearing on its first court appearance. Adding “or other court event” allows the court to assign the most appropriate court event, and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

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

Every application or verified petition in an action for visitation of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. An application brought under this section shall comply with Section 25-5. Any application or verified petition brought under this Section shall be commenced by an order to show cause. Upon presentation of the application or verified petition and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application or verified petition should not be granted. The application or verified petition, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing or other court event, which shall not be [held] more than thirty-five days from the filing of the application or verified petition.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 26, 2000, to take effect Jan. 1, 2001; amended June 26, 2006, to take effect Jan. 1, 2007; amended June 13, 2014, to take effect Jan. 1, 2015.)

***APPENDIX NOTE:** The Rules Committee of the Superior Court enacted, and the judges of the Superior Court subsequently adopted, certain changes to the provisions of this rule in response to the public health and civil preparedness emergencies declared on March 10, 2020, and renewed on September 1, 2020, and January 26, 2021. See Appendix of Section 1-9B Changes.

Commentary: A disputed visitation action is often not ready for a hearing on its first court appearance. Adding “or other court event” allows the court to assign the most appropriate court event, and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

Sec. 25-5. Automatic Orders upon Service of Complaint or Application

(Amended June 28, 1999, to take effect Jan. 1, 2000.)

The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage or civil union, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or the application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency

of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(a) In all cases involving a child or children, whether or not the parties are married or in a civil union:

(1) Neither party shall permanently remove the minor child or children from the state of Connecticut, without written consent of the other or order of a judicial authority.

(2) A party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(3) If the parents of minor children live apart during this proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(4) Neither party shall cause the children of the marriage or the civil union to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(5) The parties shall participate in the parenting education program within sixty days of the return day or within sixty days from the filing of the application.

(6) These orders do not change or replace any existing court orders, including criminal protective and civil restraining orders.

(b) In all cases involving a marriage or civil union, whether or not there are children:

(1) Neither party shall sell, transfer, exchange, assign, remove, or in any way dispose of, without the consent of the other party in writing, or an order of a judicial authority, any property, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(A) Nothing in subsection (b) (1) shall be construed to preclude a party from purchasing or selling securities, in the usual course of the parties' investment decisions, whether held in an individual or jointly held investment account, provided that the purchase or sale is: (i) intended to preserve the estate of the parties, (ii) transacted either on an open and public market or at an arm's length on a private market, and (iii) completed in such manner that the purchased securities or sales proceeds resulting from a sale remain, subject to the provisions and exceptions recited in subsection (b) (1), in the account in which the securities or cash were maintained immediately prior to the transaction. Nothing contained in this subsection shall be construed to apply to a party's purchase or sale on a private market of an interest in an entity that conducts a business in which the party is or intends to become an active participant.

(B) Notwithstanding the requirement of subparagraph (A) of subsection (b) (1) that the transaction be made in the usual course of the parties' investment decisions, if historically the parties' usual course of investment decisions involves their discussion of proposed transactions with each other before they are made, but a sale proposed by one party is a matter of such urgency as to timing that the party proposing the sale has a good faith belief that the delay occasioned by such

discussion would result in loss to the estate of the parties, then the party proposing the sale may proceed with the transaction without such prior discussion, but shall notify the other party of the transaction immediately upon its execution; provided, that a sale permitted by this subparagraph (B) shall be subject to all other conditions and provisions of subparagraph (A) of subsection (b) (1), so long as the transaction is intended to preserve the estate of the parties.

(2) Neither party shall conceal any property.

(3) Neither party shall encumber (except for the filing of a lis pendens) without the consent of the other party, in writing, or an order of a judicial authority, any property except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(4) Neither party shall cause any asset, or portion thereof, co-owned or held in joint name, to become held in [his or her] that party's name solely without the consent of the other party, in writing, or an order of the judicial authority.

(5) Neither party shall incur unreasonable debts hereafter, including, but not limited to, further borrowing against any credit line secured by the family residence, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards.

(6) Neither party shall cause the other party to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(7) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners or renters insurance policies in full force and effect.

(8) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without order of a judicial authority. This provision shall not apply if there is a prior, contradictory order of a judicial authority.

(c) In all cases[:

(1) T]the parties shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator within thirty days of the return day. The parties may thereafter enter and submit to the court a stipulated interim order allocating income and expenses, including, if applicable, proposed orders in accordance with the uniform child support guidelines.

[(2) The case management date for this case is _____. The parties shall comply with Section 25-50 to determine if their actual presence at the court is required on that date.]

(d) The automatic orders of a judicial authority as enumerated above shall be set forth immediately following the party's requested relief in any complaint for dissolution of marriage or civil union, legal separation, or annulment, or in any application for custody or visitation, and shall set forth the following language in bold letters:

Failure to obey these orders may be punishable by contempt of court. If you object to or seek modification of these orders during the pendency of the action, you have the right to a hearing before a judge within a reasonable time.

The clerk shall not accept for filing any complaint for dissolution of marriage or civil union, legal separation, or annulment, or any application for custody or visitation, that does not comply with this subsection.

(P.B. 1998.) (Amended June 29, 1998, to take effect Jan. 1, 1999; subdivision (a) (1) was amended on an interim basis, pursuant to the provisions of Section 1-9 (c), to take effect Jan. 1, 1999; amended June 28, 1999, to take effect Jan. 1, 2000; amended August 22, 2001, to take effect Jan. 1, 2002; amended June 26, 2006, to take effect Jan. 1, 2007; amended June 29, 2007, to take effect Jan. 1, 2008; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 13, 2019, to take effect Jan. 1, 2020.)

Commentary: Under Pathways, the case will be assigned its first court event much before the Case Management Date would have been. References to gender have also been removed from subsection (b) (4).

Sec. 25-26. Modification of Custody, Alimony or Support

(a) Upon an application for a modification of an award of alimony pendente lite, alimony or support of minor children, filed by a person who is then in arrears under the terms of such award, the judicial authority shall, upon hearing, ascertain whether such arrearage has accrued without sufficient excuse so as to constitute a contempt of court, and, in its discretion, may determine whether any modification of current alimony and support shall be ordered prior to the payment, in whole or in part as the judicial authority may order, of any arrearage found to exist.

(b) Either parent or both parents of minor children may be cited or summoned by any party to the action to appear and show cause, if any they have, why orders of custody, visitation, support or alimony should not be entered or modified.

(c) If any applicant is proceeding without the assistance of counsel and citation of any other party is necessary, the applicant shall sign the application and present the application, proposed order and summons to the clerk; the clerk shall review the proposed order and summons and, unless it is defective as to form, shall sign the proposed order and summons and shall assign a date for a hearing or other court event on the application.

(d) Each motion for modification of custody, visitation, alimony or child support shall state clearly in the caption of the motion whether it is a pendente lite or a postjudgment motion.

(e) Each motion for modification shall state the specific factual and legal basis for the claimed modification and shall include the outstanding order and date thereof to which the motion for modification is addressed.

(f) On motions addressed to financial issues, the provisions of Section 25-30 shall be followed.

(g) Upon or after entry of judgment of a dissolution of marriage, dissolution of civil union, legal separation or annulment, or upon or after entry of a judgment or final order of custody and/or visitation for a petition or petitions filed pursuant to Section 25-3 and/or Section 25-4, the judicial authority may order that any further motion for modification of a final custody or visitation order shall be appended with a request for leave to file such motion and shall conform to the requirements of subsection (e) of this section. The specific factual and legal basis for the claimed modification shall be sworn to by the moving party or other person having personal knowledge of the facts recited therein. If no objection to the request has been filed by any party within ten days of the date of service of such request on the other party, the request for leave may be determined by the judicial authority with or without hearing. If an objection is filed, the

request shall be placed on the next short calendar, unless the judicial authority otherwise directs. At such hearing, the moving party must demonstrate probable cause that grounds exist for the motion to be granted. If the judicial authority grants the request for leave, at any time during the pendency of such a motion to modify, the judicial authority may determine whether discovery or a study or evaluation pursuant to Section 25-60 shall be permitted.

(P.B. 1978-1997, Sect. 464.) (Amended June 20, 2005, to take effect Jan. 1, 2006; amended June 29, 2007, to take effect Oct. 1, 2007.)

Commentary: A disputed motion for modification is not always ready to be heard on its first court appearance. Assigning a hearing may be untimely and not an efficient or effective use of the parties' time or the court's resources. Adding "or other court event" allows the matter to be given the court resources it needs. Should the parties reach an agreement at any court event, such agreement may be put on the record without the need for further court appearance.

Sec. 25-30. Statements To Be Filed

(a) At least five business days before the hearing date of a motion or order to show cause concerning alimony, support, or counsel fees, or at the time a dissolution of marriage or civil union, legal separation or annulment action or action for custody or visitation is scheduled for a hearing, each party shall file, where applicable, a sworn statement substantially in accordance with a form prescribed by the chief court administrator, of current income, expenses, assets and liabilities. When the attorney general has appeared as a party in interest, a copy of the sworn statements shall be served upon [him or her] the attorney general in accordance with Sections 10-12 through 10-17. Unless otherwise ordered by the judicial authority, all appearing parties shall file sworn statements within thirty days prior to the date of the decree. Notwithstanding the above, the court may render pendente lite and permanent orders, including judgment, in the absence of the opposing party's sworn statement.

(b) At least [ten] five business days before the scheduled family special masters session, alternative dispute resolution session, or judicial pretrial, the parties shall serve on each appearing party, but not file with the court, written proposed orders, and, unless the matter is uncontested or the defendant has not appeared, at least [ten] five business days prior to the date of the final [limited contested or contested] hearing or trial, the parties shall file with the court and serve on each appearing party written proposed orders.

(c) The written proposed orders shall be comprehensive and shall set forth the party's requested relief including, where applicable, the following:

- (1) a parenting plan;
- (2) alimony;
- (3) child support;
- (4) property division;
- (5) counsel fees;
- (6) life insurance;
- (7) medical insurance; and
- (8) division of liabilities.

(d) The proposed orders shall be neither factual nor argumentative but shall, instead, only set forth the party's claims.

(e) Where there is a minor child who requires support, the parties shall file a completed child support and arrearage guidelines worksheet at the time of any court hearing concerning child support; or at the time of a final hearing in an action for dissolution of marriage or civil union, legal separation, annulment, custody or visitation.

(f) At the time of any hearing, including pendente lite and postjudgment proceedings, in which a moving party seeks a determination, modification, or enforcement of any alimony or child support order, a party shall submit an Advisement of Rights Re: [Wage] Income Withholding Form (JD-FM-71).

(P.B. 1978-1997, Sec. 463.) (Amended June 24, 2002, to take effect Jan. 1, 2003; amended June 26, 2006, to take effect Jan. 1, 2007.)

Commentary: Subsection (a) has been amended to remove references to gender. Subsection (b) was amended to remove obsolete references to "limited contested" and "contested" matters, to include clarifying language regarding written proposed orders, and to change the time to exchange/file written proposed orders from ten to five days prior to the designated court event to be consistent with Section 25-50 (f). Subsection (f) was amended to correct the title of the JD-FM-71 form. All time periods in this section except for the requirement to file all statements thirty days prior to the date of the decree are designated as business days at the request of the bar.

25-34. [Procedure for Short Calendar] Motions

(a) Each judicial district shall have a regular Motion Docket for scheduling pendente lite motions. Motions shall be placed on the Motion Docket in accordance with subsection (b) of this Section.

[(a)] (b) Any pendente lite motion filed in an action described in subsection (a) of this Section shall, unless otherwise scheduled or docketed by the court, be deemed automatically scheduled for the next Case Date held in the action pursuant to section 25-50 or, if no future Case Dates are to be held, then for the time of trial. At least five business days before a Case Date, each party shall provide to the other party and file with the court a notice listing those of the party's pending pendente lite motions, if any, that the party wishes to pursue at the Case Date, in the order of priority that the party wishes the motions to be heard. If a party fails to provide and file such list, or files a motion less than five business days before the Case Date and the nonmoving party objects to having such motion heard on the Case Date, the motion will be not heard on that date unless the court determines that the interests of justice would be served by hearing it on the Case Date and doing so would cause no substantial prejudice to the nonmoving party.

With the exception of matters governed by Chapter 13 or a motion to waive the statutory time period in a[n] pending uncontested dissolution of marriage or legal separation case under General Statutes § 46b-67 (b), oral argument on any motion or the presentation of [testimony] evidence thereon shall be allowed before the next court event at which the motion would otherwise be deemed scheduled pursuant to [Section 25-30 (f)] this section if [the] an appearing [parties have followed administrative policies for marking the motion ready and for screening with family services] party has requested that such motion be placed on the Motion Docket and the judicial authority has granted such request.

A request that a motion be placed on the Motion Docket may be made as follows: (1) When the parties appear before a judge, either party may orally request that a particular motion be placed on an upcoming Motion Docket, or (2) By filing a Caseflow Request (JD-FM-292) form with the section for requesting placement of a pendente lite motion on a Motion Docket completed.

In acting on a request to place a motion on the Motion Docket, the court may consider the following factors along with any other factors the court deems relevant: (1) The nature of the motion and the reasons stated for the request; (2) If not placed on the Motion Docket, the length of time before the next court date at which the motion could be heard; (3) Whether the motion is related to, or duplicative of, another motion or motions already heard or scheduled to be heard; (4) If the case has been assigned to a designated judge, the availability of that judge to hear the motion if it is placed on a Motion Docket.

Oral argument and the presentation of [testimony] evidence on motions made under Chapter 13 and other nonarguable motions are at the discretion of the judicial authority. The nonmoving party shall have a period of five business days to file an objection to such a motion, unless the Practice Book specifies a different period of time for objection to the particular type of motion filed, in which case the different period shall apply. After allowing the applicable period for objection, the court may, in its discretion, rule on the motion or assign the matter for oral argument or an evidentiary hearing pursuant to subsection (d) of this section, provided that argument or hearing shall be scheduled if any other rule applicable to the motion in question requires the same when an objection is filed.

[b] (c) Any [such] motion filed to waive the statutory time period in an uncontested dissolution of marriage or legal separation case will not be placed on the [short calendar] Motion Docket. The clerk shall bring the motion as soon as practicable to either the judicial authority assigned to hear the case, or, if a judicial authority has not yet been assigned, to the presiding judicial authority for a ruling on the papers. If granted, the uncontested dissolution or legal separation is to be scheduled in accordance with the request of the parties to the degree that such request can be accommodated, including scheduling the matter on the same day that the motion is granted.

[c] (d) If the judicial authority has determined that oral argument or the presentation of [testimony] evidence is necessary on a motion made under Chapter 13 or other nonarguable motion, the judicial authority shall set the matter for oral argument or [testimony] an evidentiary hearing on a Case Date, Motion Docket upon consideration of the same factors set forth in Section 25-34(b) for the placement of arguable motions on the Motion Docket, or other [short calendar date or other] date [as] determined by the judicial authority.

[d] If the judicial authority has determined that oral argument is necessary on a motion made under Chapter 13 and has not set it down on a hearing date, the movant may reclaim the motion within thirty days of the date the motion appeared on the calendar.]

(e) Parties are required to appear and be prepared to proceed with a hearing on the day of the assigned Motion Docket unless a timely request for continuance has been granted, or the motion is withdrawn or resolved by agreement in advance. If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

(f) Failure to appear and present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise. [Unless for good cause shown, no motion may be reclaimed after a period of three months from the date of filing.] This subsection shall not apply to those motions where counsel appeared on the date set by the judicial authority and entered into an agreement for a scheduling order for discovery, depositions and a date certain for hearing that was approved and ordered by the court.

(g) Nothing in this Section shall prevent the judicial authority from assigning any other motion to be heard on the Motion Docket.

(h) Unless otherwise ordered by the court: (1) A post-judgment motion that does not relate to emergency ex parte relief will be assigned a resolution plan date in the same manner as set forth in section 25-50 (a); (2) If an additional post-judgment motion is filed in the same case before the resolution plan date is held, it will be scheduled for the same resolution plan date; and (3) If an additional post-judgment motion is filed in the same case after the resolution plan date is held, but before the court hearing date for the original motion, the subsequent motion will be scheduled for the same hearing date as the original motion.

(P.B. 1998) (Amended June 20, 2011, to take effect Aug. 15, 2011; amended June 24, 2016 to take effect Jan. 1, 2017.)

Commentary: Under Pathways, a Motion Docket, which is explained in this Section, has been created for matters of urgency that cannot wait until the next scheduled court event. While it is neither necessary nor possible to enumerate all of the factors considered in a scheduling decision, the rule is intended to provide guidance to the parties as to some of the criteria the court may generally consider in placing a matter on the Motion Docket. Language was added to subsection (b) to (1) describe how motions will be handled on Case Dates; (2) address how objections to nonarguable motions will be handled; and (3) make language changes at the request of the bar regarding the use of the words “testimony” and “evidence.” A subsection (h) was added to set forth the procedures for the scheduling of post-judgment motions.

Sec. 25-50. Case Management Under Pathways

The Pathways approach shall be followed and shall include:

(a) [The presiding judge or a designee shall determine by the case management date which track each case shall take and assign each case for disposition. That date shall be set on a schedule approved by the presiding judge.] A resolution plan date shall be assigned in dissolution of marriage, dissolution of civil union, legal separation, and annulment cases, no less than 30 days and no more than 60 days from the return date, and in custody and visitation cases in accordance with Sections 25-3 and 25-4, to meet with a family relations counselor to identify (1) all matters where the parties agree, (2) how likely the parties are to reach an agreement on any disputed issues, and (3) the resources needed to resolve the case. The family relations counselor will recommend an action plan for the court’s consideration, including a recommendation for one of three tracks: (1) Track A for cases that require the lowest level of court time and resources, including cases that are fully resolved on the resolution plan date (2) Track B for cases that are expected to require a moderate level of court time and resources, or (3) Track C for cases

with disputes about major issues that are expected to require the highest level of judicial time and resources. After considering the recommendations of the family relations counselor and input from the parties, the court shall make a scheduling order which may include, but is not limited to, assigning the case to a track, scheduling future court dates (including one or more Case Dates), ordering a schedule for discovery, and specifying the steps the parties must take between such court dates. The parties must follow the terms of the scheduling order, or the case may be dismissed, or other sanctions may be imposed.

(b) In all cases, except those seeking only visitation, [unless the party or parties appear and the case proceeds to judgment under subsection (c) or (d) on the case management date,] the party or parties shall file sworn financial affidavits on or before the resolution plan date. [case management date:

(1) a case management agreement (JD-FM-163);

(2) sworn financial affidavits;

(3) a proposed parenting plan, if there are minor children.

If the parties or counsel have not filed these documents on or before the case management date, or in a case with parenting disputes where counsel or self-represented parties have not come to court on the case management date, the case may be dismissed or other sanctions may be imposed.]

(c) If, in a dissolution of marriage, dissolution of civil union, legal separation or annulment case, the defendant has not filed an appearance [by the case management date,] within thirty days after the return date, the plaintiff may file a motion in accordance with C.G.S. §46b-67 (c) and, if granted, appear and proceed to judgment [on the case management date] without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30. [Otherwise, the plaintiff must file, on or before the case management date, the documents listed in subsection (b) and the clerk shall assign the matter to a date certain for disposition.]

(d) If the matter is uncontested, the parties may follow the proper procedures to proceed to judgment without a hearing or may appear and proceed to judgment [on the case management date,] at a hearing at any time, subject to the schedule of the court and provided the [plaintiff has] parties have complied with the provisions of Section 25-30. If the ninety day waiting period has not yet lapsed, the parties must first seek a waiver of such waiting period pursuant to General Statutes § 46b-67 (b) prior to proceeding to judgment. Otherwise[, the parties must file, on or before the case management date, the documents listed in subsection (b) and] the clerk shall assign the matter to a date certain for disposition.

(e) [In cases where there are financial disputes, the parties do not have to come to court on the case management date, but must file on or before the case management date the documents listed in subsection (b). Thereafter, the matter may be directed to any alternative dispute resolution mechanism, private or court-annexed, including, but not limited to, family special masters and judicial pretrial. If not resolved, the matter will be assigned a date certain for trial.] In a Track B or Track C case, the scheduling order issued by the court may include, but is not limited to, one or more of the following: (1) One or more Case Dates for the court to hear or address matters that need to be considered before the final trial date, (2) assignment of motions to a Motion Docket, (3) a date for pretrial, (4) a trial date, and (5) a discovery schedule.

(f) [In cases where there are parenting disputes, the parties and counsel must appear for a case management conference on the case management date. If parenting disputes require judicial intervention, the appointment of counsel or a guardian ad litem for the minor child, or case study or evaluation by family services or by a private provider of services, a target date shall be assigned for completion of such study and the final conjoint thereon and, thereafter, a date certain shall be assigned for disposition.

(g) With respect to subsections (e) and (f), if a trial is required, such order may include a date certain for a trial management conference between counsel or self-represented parties for the purpose of premarking exhibits and complying with other orders of the judicial authority to expedite the trial process.] Unless otherwise ordered by the court, in any case assigned a judicial, family relations or special master pretrial the parties must exchange and submit to the authority presiding over the pretrial at least five business days prior to the scheduled pretrial (1) A non-argumentative memorandum that sets forth the facts relevant to the criteria in General Statutes §§ 46b-81 and 46b-82, (2) Written proposed orders in accordance with Section 25-30 (c) and (d), which shall be comprehensive and state the parties' requested relief, (3) Current sworn financial affidavits, including a detailed income statement, a list of assets and liabilities, the value of all assets, current value of all retirement and employment benefits and any proposed distribution, and (4) If there are minor children, a fully completed child support guidelines worksheet that the parties agree to. If the parties do not agree, each party shall individually provide a fully completed child support guidelines worksheet.

The parties must be prepared to provide any supporting documentation needed and bring such documentation to the pretrial.

If a party does not fully comply with this subsection, sanctions may be imposed by the presiding judge.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 12, 2015, to take effect Jan. 1, 2016.)

TECHNICAL CHANGE: In subsection (b), the reference to "subsection" in the disjunctive was made singular.

Commentary: This Section has been amended to reflect the elements and requirements of case management under Pathways, and other changes are intended to align this rule with the statutory provisions contained therein.

Sec. 25-51. When Motion for Default for Failure To Appear Does Not Apply

(a) If, in any case involving a dissolution of marriage or civil union, legal separation, or annulment, the defendant has not filed an appearance by the [case management date,] expiration of the ninety day statutory waiting period pursuant to General Statutes §46b-67, the plaintiff may proceed to judgment [on the case management date] without further notice to such defendant. Section 17-20 concerning motions for default shall not apply to such cases.

(b) If the defendant [files an appearance by the case management date, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50.] has not filed an appearance within thirty days after the return date, the plaintiff may make a motion to proceed to judgment in accordance with Section 25-50.

(c) If the defendant files an appearance before the case is in judgment, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50.

(P.B. 1998.) (Amended June 26, 2006, to take effect Jan. 1, 2007; amended June 12, 2015, to take effect Jan. 1, 2016.)

Commentary: The changes are intended to align this rule with the statutory provisions contained therein.

Sec. 25-53. Reference of Family Matters

In any family matter the court may, upon its own motion or upon motion of a party, refer any [contested, limited contested, or uncontested] matter for hearing and decision to a judge trial referee who shall have been a judge of the referring court. Such matters shall be deemed to have been referred for all further proceedings and judgment, including matters pertaining to any appeal therefrom, except that the referring court may retain jurisdiction to hear and decide any pendente lite or contempt matters.

(P.B. 1978-1997, Sec. 458.)

Commentary: This rule has been amended to delete obsolete references to case status.