

person in small claims matters and includes "costs for service" as allowable costs.

AMENDMENTS TO THE FAMILY RULES

Sec. 25-59B. –Documents Containing Personal Identifying Information

(a) The requirements of Section 25-59A shall not apply to "personal identifying information," as defined in Section 4-7, that may be found in documents filed with the court, with the exception of financial affidavits that are under seal. When a financial affidavit is unsealed, this section shall apply. If a document containing personal identifying information is filed with the court, a party or a person identified by the personal identifying information may [move to redact the personal identifying information or to seal] request that the document [if] containing the personal identifying information [cannot be redacted] be sealed. In response to such [a motion] request, or on its own motion, the court shall order [the document temporarily sealed pending redaction, shall order the document redacted either by the party who filed it or by the clerk, and shall return the original to the party who filed it unless it is necessary to complete the record] that the document be sealed and that the party who filed the document submit a redacted copy of the document within ten days of such order.

(b) If the party who filed the document fails to submit a redacted copy of the document within ten days of the order, the court may enter sanctions, as appropriate, against said

party for such failure upon the expiration of the ten day period. Upon the submission of a redacted copy of such document, the original document containing the personal identifying information shall be retained as a sealed document in the court file, unless otherwise ordered by the court.

COMMENTARY: The above changes remove the option of ordering the clerk to redact personal identifying information from a document and provide a penalty for the failure of the party who filed the document to comply with a court order to timely file a redacted copy of the document with the court.

[Sec. 25-65. Family Support Magistrates; Procedure

(a) The procedure in any matter which is to be heard and determined by a family support magistrate shall conform, where applicable, to the procedure in and for the superior court except as otherwise provided herein.

(b) Any pleading or motion filed in a family support magistrate matter shall indicate, in the lower right hand corner of the first page of the document, that it is a family support magistrate matter.

(c) Matters to be heard and determined by a family support magistrate shall be placed on the family support magistrate list.

(d) Matters on the family support magistrate list shall be assigned automatically by the family support magistrate clerk without the necessity of a written claim. No such matters shall be so assigned unless filed at least five days before the opening of court on the day the list is to be called.

(e) Matters upon the family support magistrate list shall not be continued except by order of a family support magistrate.]

COMMENTARY: The substance of this section is now contained in new Chapter 25A, Section 25A-1. This section is no longer necessary and has been repealed.

[Sec. 25-66. Appeal from Decision of Family Support Magistrate

Any person who is aggrieved by a final decision of a family support magistrate may appeal such decision in accordance with the provisions of General Statutes § 46b-231. The appeal shall be instituted by the filing of a petition which shall include the reasons for the appeal.]

COMMENTARY: The substance of this section is now contained in new Chapter 25A, Section 25A-20. This section is no longer necessary and has been repealed.

[Sec. 25-67. Support Enforcement Services

In cases where the payment of alimony and support has been ordered, a support enforcement officer, where provided by statute, shall:

(1) Whenever there is a default in any payment of alimony or support of children under judgments of dissolution of marriage or civil union or separation, or of support under judgments of support, where necessary, (A) bring an application to a family support magistrate for a rule requiring

said party to appear before a family support magistrate to show cause why such party should not be held in contempt, or (B) take such other action as is provided by rule or statute.

(2) In connection with subdivision (1) above, or at any other time upon direction of a family support magistrate, investigate the financial situation of the parties and report his or her findings thereon to a family support magistrate which may authorize the officer to bring an application for a rule requiring any party to appear before a family support magistrate to show cause why there should not be a modification of the judgment.

(3) In non-TANF IV-D cases, review child support orders at the request of either parent subject to a support order or, in TANF cases, review child support orders at the request of the bureau of child support enforcement and initiate and facilitate, but not advocate on behalf of either party, an action before a family support magistrate to modify such support order if it is determined upon such review that the order substantially deviates from the child support guidelines established pursuant to General Statutes §§ 46b-215a or 46b-215b. The requesting party shall have the right to such review every three years without proving a substantial change in circumstances; more frequent reviews shall be made only if the requesting party demonstrates a substantial change in circumstances.]

COMMENTARY: An amended version of this section has been moved to new Chapter 25A, as Section 25A-21. This section is no longer necessary and has been repealed.

**(NEW) CHAPTER 25A
FAMILY SUPPORT MAGISTRATE MATTERS**

COMMENTARY: This new chapter is intended to clarify what rules of practice are specifically incorporated in the family support magistrate court rules, and what rules are exclusive only to the family support magistrate court. They include rules that mirror, to the extent possible, the language of the Superior Court rules but are in an exclusive new section based upon the sense that they vary sufficiently such that it was more efficacious to provide them as separate rules.

(NEW) Sec. 25A-1. Family Support Magistrate Matters; Procedure

(a) In addition to the specific procedures set out in this chapter, the following provisions shall govern the practice and procedure in all family support magistrate matters, whether heard by a family support magistrate or any other judicial authority. The term "judicial authority" and the word "judge" as used in the rules referenced in this section shall include family support magistrates where applicable, unless specifically otherwise designated. The word "complaint" as used in the rules referenced in this section shall include petitions and applications filed in family support magistrate matters.

(1) General Provisions:

- (i) Chapters 1, 2, 5 and 6, in their entirety;
- (ii) Chapter 3, in its entirety except subsection (b) of Section 3-2, and Section 3-9;
- (iii) Chapter 4, in its entirety except Section 4-2;

(iv) Chapter 7, Section 7-19.

(2) Procedures in Civil Matters:

(i) Chapter 8, Section 8-1 and 8-2;

(ii) Chapter 9, Sections 9-1, and 9-18 through 9-20;

(iii) Chapter 10, Sections 10-1, 10-3 through 10-5, 10-7, 10-10, 10-12 through 10-14, 10-17, 10-26, 10-28, 10-31 through 10-34, 10-41 through 10-45 and 10-59 through 10-68;

(iv) Chapter 11, Sections 11-1 through 11-8, 11-10 through 11-12 and 11-19;

(v) Chapter 12, in its entirety;

(vi) Chapter 13, Sections 13-1 through 13-3, 13-5, 13-8, 13-10 except subsection (c), 13-11A, 13-21 except paragraph (13) of subsection (a), subsections (a), (e), (f), (g) and (h) of Section 13-27, 13-28 and 13-30 through 13-32;

(vii) Chapter 14, Sections 14-1 through 14-3, 14-9, 14-15, 14-17, 14-18, 14-24 and 14-25.

(viii) Chapter 15, Sections 15-3, 15-5, 15-7 and 15-8;

(ix) Chapter 17, Sections 17-1, 17-4, 17-5, 17-19, 17-21, subsection (a) of Sections 17-33, and 17-41;

(x) Chapter 18, Section 18-19;

(xi) Chapter 19, Section 19-19;

(xii) Chapter 20, Sections 20-1 and 20-3;

(xiii) Chapter 23, Sections 23-20, 23-67 and 23-68.

(3) Procedure in Family Matters:

Chapter 25, Sections 25-1, 25-9, 25-12 through 25-22, 25-27, 25-33, 25-48, 25-54, 25-59, 25-59A, 25-61, 25-62 through 25-64 and 25-68.

(b) Any pleading or motion filed in a family support magistrate matter shall indicate, in the lower right hand corner of the first page of the document, that it is a family support magistrate matter.

(c) Family support magistrate matters shall be placed on the family support magistrate matters list for hearing and determination.

(d) Family support magistrate list matters shall be assigned automatically by the clerk without the necessity of a written claim. No such matters shall be so assigned unless filed at least five days before the opening of court on the day the list is to be called.

(e) Family support magistrate list matters shall not be continued except by order of a judicial authority.

COMMENTARY: This section is intended to make clear, specifically, what rules of practice are applicable to the practice and procedure for Family Support Magistrate court. It is intended to be all-inclusive and eliminate the discretionary application of rules. It also specifies the manner of filing and the hearing procedures that are specific to Family Support Magistrate court.

As regards the incorporation of Section 6-2, judgment files in Family Support Magistrate court are prepared when necessary for appeals to the Appellate Court and Supreme

Court and in certain interstate matters and shall be prepared by the clerk when needed.

As regards the incorporation of Section 13-5, it is intended that the purpose of the protective order in the Title IV-D context is solely to protect litigants against attempts by other litigants to seek discovery beyond that which was ordered disclosed by the judicial authority.

As regards the incorporation of Section 13-29, it is intended to recognize that the information gathering procedures and procedures regarding the taking of testimony such as those set out in the Uniform Interstate Family Support Act (UIFSA) which are different than those set out in this section and that those procedures be utilized when a conflict arises with the provisions of subsections (b) and (c) of Section 13-29.

As regards the incorporation of Section 13-30, it is intended that the term "trial" as used in Section 13-30 includes hearings in Title IV-D child support matters.

As regards the incorporation of Section 19-19, that section is applicable to Family Support Magistrate court because, in rare instances, a Family Support Magistrate is confronted with a matter that requires a reference to an accountant. Those cases arise most often with regard to post judgment support enforcement actions that have originated in superior court, or with self-employed obligors.

Subsections (b) through (e) are similar to subsections (b) through (e) of Section 25-65.

(NEW) Sec. 25A-1A. Prompt Filing of Appearance

An appearance in Title IV-D child support matters should be filed promptly but may be filed at any stage of the proceeding.

COMMENTARY: This rule is based on Section 3-2 (b) and is intended to make clear the desire for a prompt filing of an appearance by an attorney for a party, but to recognize that an appearance should be able to be filed at any stage of the proceeding.

(NEW) Sec. 25A-2. Withdrawal of Appearance; Duration of Appearance

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon failure to file a written objection within ten days after written notice has been given or mailed to such attorney or party that a new appearance has been filed in place of the appearance of such attorney or party in accordance with Section 3-8.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an

application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

(d) Except as provided in subsections (a), (b) and (c), no attorney shall withdraw his or her appearance after it has been entered upon the record of the court without the leave of the court.

(e) All appearances of the chief child protection attorney appointed pursuant to General Statutes § 46b-123c shall continue until a motion to withdraw has been granted.

(f) All appearances entered on behalf of parties for matters involving Title IV-D child support matters shall be deemed to be for those matters only.

(g) All appearances entered on behalf of parties in the family division of the superior court shall not be deemed appearances for any matter involving a Title IV-D child support matter unless specifically so designated.

COMMENTARY: This section is similar to Section 3-9, but has been tailored to Family Support Magistrate court. Subsection (e) of this section is intended to clarify that the Chief Child Protection Attorney counsel must file a motion to withdraw as any other attorney.

This section regarding appearances and withdrawals is intended to clarify that an appearance in family court is not an appearance in IV-D court and vice versa. Without this clarification, members of the bar have been faced with a judicial authority counting their appearance for all matters where neither their retainer agreement covers the additional services nor is their sense of their own individual competence contemplated to cover services in the other court.

(NEW) Sec. 25A-2A. Telephonic Hearings.

(a) In any case where mandated by law, the judicial authority shall upon written motion or on its own motion permit an individual to testify by telephone or other audio electronic means.

(b) In any case where permitted by law, the judicial authority may upon written motion or on its own motion

permit an individual to testify by telephone or other audio electronic means.

(c) Upon an order for a telephonic hearing, the judicial authority shall set the date, time and place for such hearing and shall issue an order in connection therewith.

COMMENTARY: This establishes a uniform practice for providing notice of and requesting telephonic hearings. Telephonic hearings are commonly used in Family Support Magistrate court for *Uniform Interstate Family Support Act (UIFSA)* proceedings.

(NEW) Sec. 25A-2B. Signing of Pleading

(a) Every pleading and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name. A party who is not represented by an attorney, and a support enforcement officer where appropriate, shall sign the pleadings and other papers. The name of the attorney, party or support enforcement officer who signs such document shall be legibly typed or printed beneath the signature.

(b) The signing of any pleading, motion, objection or request shall constitute a certificate that the signer has read such document, that to the best of the signer's knowledge, information and belief there is good ground to support it, that it is not interposed for delay, and that the signer has complied with the requirements of Section 4-7 regarding personal identifying information. Each pleading and every other court-

filed document shall set forth the signer's telephone number and mailing address.

COMMENTARY: This section is similar to Section 4-2, but has been tailored to Family Support Magistrate matters. In Family Support Magistrate court, a support enforcement officer is an authorized person to sign a pleading.

(NEW) Sec. 25A-3. Contents of Petition

All petitions shall contain a concise statement of the facts constituting the cause of action, a demand for relief and the basis on which relief is sought.

COMMENTARY: This section is similar to Section 10-20, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-4. Automatic Orders upon Service of Petition

(a) The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a petition for child support. 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 petitioner or the applicant upon the signing of the document initiating the action (whether it be complaint, petition or application), and with regard to 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:

(1) Neither party shall cause the other party or the children who are the subject of the complaint, application or petition 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.

(b) The automatic orders of a judicial authority as enumerated in subsection (a) shall be set forth immediately following the party's requested relief in any complaint, petition or application, and shall set forth the following language in uppercase letters: IF YOU DO NOT FOLLOW OR OBEY THESE ORDERS YOU MAY BE PUNISHED BY CONTEMPT OF COURT. IF YOU OBJECT TO THESE ORDERS OR WOULD LIKE TO HAVE THEM CHANGED OR MODIFIED WHILE YOUR CASE IS PENDING, YOU HAVE THE RIGHT TO A HEARING BY A JUDICIAL AUTHORITY WITHIN A REASONABLE TIME. The clerk shall not accept for filing any complaint, petition or application that does not comply with this subsection.

COMMENTARY: This section contains the automatic orders from Section 25-5 that were deemed applicable to matters in Family Support Magistrate court. Actions for support brought in the name of the recipient of Title IV-D services require an affidavit to be signed by that recipient. This will provide the opportunity for the Department of Social Services' representative to give that recipient a copy of these automatic orders at that time.

(NEW) Sec. 25A-4A. Order of Notice

(a) On a petition for support or the establishment of paternity when the adverse party resides out of or is absent from the state or the whereabouts of the adverse party are unknown to the plaintiff or the applicant, any judicial authority or clerk of the court may make such order of notice as he or she deems reasonable. If such notice is by publication, it shall not include the automatic orders set forth in Section 25A-4, but shall instead include a statement that automatic orders have issued in the case pursuant to Section 25A-4 and that such orders are set forth in the application or petition on file with the court. Such notice having been given and proved, the judicial authority may hear the application or petition if it finds that the adverse party has actually received notice that the application or petition is pending. If actual notice is not proved, the judicial authority in its discretion may hear the case or continue it for compliance with such further order of notice as it may direct.

(b) With regard to any motion for modification or for contempt or any other motion requiring an order of notice, where the adverse party resides out of or is absent from the state any judicial authority or clerk of the court may make such order of notice as he or she deems reasonable. Such notice having been given and proved, the court may hear the motion if it finds that the adverse party has actually received notice that the motion is pending.

COMMENTARY: This section is similar to Section 25-28, but has been tailored to Family Support Magistrate matters. It is noted that the *Uniform Interstate Family Support Act (UIFSA)* provides a means for notice under General Statutes § 46b-212d which provides an alternative basis for notice of the proceeding.

(NEW) Sec. 25A-5. Motions

(a) Any appropriate party may move for child support, appointment of counsel or guardian ad litem for the minor child, counsel fees, or for an order or enforcement of an order with respect to the maintenance of the family or for any other statutorily authorized relief.

(b) Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion.

COMMENTARY: This section is similar to Section 25-24 and reflects the fact that relief is exclusively statutory in Family Support Magistrate court.

(NEW) Sec. 25A-5A. — Motion to Cite in New Parties

Any motion to cite in or admit new parties must comply with Section 11-1 and state briefly the grounds upon which it is made. In Title IV-D child support matters, a motion to cite in or admit new parties is limited to a parent, legal custodian or guardian.

(NEW) Sec. 25A-6. Answer to Cross Petition

A plaintiff in a family support magistrate matter seeking to contest the grounds of a cross petition may file an answer admitting or denying the allegations of such cross petition or leaving the pleader to his or her proof. If a decree is rendered on the cross petition, the judicial authority may award to the plaintiff such relief as is claimed in the petition.

COMMENTARY: This section is similar to Section 25-10, but has been tailored to Family Support Magistrate matters. It makes clear that an answer is discretionary and not mandatory just as in family court.

(NEW) Sec. 25A-7. Order of Pleadings

The order of pleadings shall be:

- (1) the petition for establishment of paternity and/or a petition for support;
- (2) the defendant's motion to dismiss the petition;
- (3) the defendant's motion to strike the petition or claims for relief;
- (4) the defendant's answer, cross petition and claims for relief;
- (5) the plaintiff's motion to strike the defendant's answer, cross petition, or claims for relief;
- (6) the plaintiff's answer.

COMMENTARY: This section is similar to Sec. 25-11, but it has been tailored to Family Support Magistrate matters. The order of pleadings tracks the order in family court. It is specific for Family Support Magistrate court in that it refers to

the support and paternity petition. No request to revise is permitted here just as it is not permitted in the family rules.

(NEW) Sec. 25A-8. Reclaims

If a motion has gone off the family support magistrate calendar without being adjudicated, any party may claim the motion for adjudication. If an objection to a request has gone off the family support magistrate calendar without being adjudicated, the party who filed the request may claim the objection to the request for adjudication. Any party may claim for adjudication any motion or request initiated by support enforcement services that has gone off without being adjudicated and a support enforcement officer may claim any motion or request initiated by support enforcement services that has gone off without being adjudicated.

COMMENTARY: This section is intended to clarify how a matter may be brought before the court for hearing if it has gone off. This section is similar to Section 11-13.

(NEW) Sec. 25A-8A. –Continuances when Counsel’s Presence or Oral Argument Required

Matters upon the short calendar list requiring oral argument or counsel’s presence shall not be continued except for good cause shown; and no such matter in which adverse parties are interested shall be continued unless the parties shall agree thereto before the day of the short calendar session and notify the clerk, who shall make note thereof on the list of the judicial authority; in the absence of such agreement, unless the

judicial authority shall otherwise order, any counsel appearing may argue the matter and submit it for decision, or request that it be denied.

COMMENTARY: This section is based on Section 11-16, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-9. Statements to Be Filed

(a) At least five 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 in accordance with Sections 10-12 through 10-14 and 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) 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.

(c) 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: Income Withholding form (JD-FM-71).

COMMENTARY: This section is similar to Section 25-30 and makes clear that there is an expectation of proper financial affidavits in Family Support Magistrate court as provided herein.

(NEW) Sec. 25A-10. Opening Argument

Instead of reading the pleadings, any party shall be permitted to make a brief opening statement at the discretion of the judicial authority, to apprise the trier in general terms as to the nature of the case being presented for trial. The judicial authority shall have discretion as to the latitude of the statements of the parties.

COMMENTARY: This section is similar to Section 15-6, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-11. Motion to Open Judgment of Paternity by Acknowledgment

(a) Any mother or acknowledged father who wishes to challenge an acknowledgment of paternity pursuant to General Statutes Section 46b-172(a)(2) shall file a motion to open judgment which shall state the statutory grounds upon which

the motion is based and shall append a certified copy of the document containing the acknowledgment of paternity to such motion.

(b) Upon receipt of such motion to open and accompanying document, the clerk shall cause the matter to be docketed.

(c) Any action to challenge an acknowledgment of paternity for which there is no other family court file involving the same parties shall be commenced by an order to show cause accompanied by the motion to open judgment and the document containing the acknowledgment of paternity required by subsection (a) of this section. Upon presentation of the motion to open and the acknowledgment of paternity, 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 by the moving party should not be granted. The motion to open, acknowledgment of paternity and order shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the challenge.

(d) Nothing in this section shall preclude an individual from filing a special defense of a challenge to a paternity judgment, or a counterclaim in response to a petition for support.

COMMENTARY: This section is intended to provide a standard process for a challenge to a paternity

acknowledgment. These acknowledgments are not housed in the courthouse but have the statutory effect of a judgment. The challenge addressed by this rule was to find a means to create a process which also created a file with the judgment in it for clerk record keeping purposes. It is intended that the initial burden of proof be on the moving party. Subsection (d) is intended to make clear that while the judgment father may not have initiated a matter through this section, he is not precluded from seeking to open a judgment within an action claiming support against him, or as a special defense to a petition for support.

(NEW) Sec. 25A-12. Modification of Alimony or Support

(a) Upon an application for a modification of an award of alimony or support of minor children, filed by a person who is then in arrears under the terms of such award, the judicial authority may, 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) In Title IV-D matters, upon any motion to modify support for minor children, where the motion seeks to reduce the amount of support, the judicial authority may 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.

(c) Either parent or both parents of minor children, or any individual receiving Title IV-D services from the State of Connecticut may be cited or summoned by any party to the action, or in Title IV-D matters by support enforcement services of the judicial branch, to appear and show cause why orders of support or alimony should not be entered or modified.

(d) In matters where the parties, or other individuals pursuant to subsection (b) of this section, to a child support order are receiving Title IV-D services from the State of Connecticut, support enforcement services of the judicial branch may initiate a motion to modify an existing child support order pursuant to General Statutes Section 46b-231(s)(4) and, in connection with such motion, may issue an order and summons and assign a date for a hearing on such motion.

(e) If any applicant, other than support enforcement services of the judicial branch, 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 on the application.

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

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

COMMENTARY: This section is similar to Section 25-26, but has been tailored to Family Support Magistrate matters. The phrase "or any individual" in subsection (c) of this section refers to any individual receiving Title IV-D services for the child(ren) at issue.

(NEW) Sec. 25A-13. Standard Disclosure and Production

(a) Upon request by a party or as ordered by the judicial authority, opposing parties shall exchange the following documents within thirty days of such request or such order:

(1) all federal and state income tax returns filed within the last three years, including personal returns and returns filed on behalf of any partnership or closely-held corporation of which a party is a partner or shareholder;

(2) IRS forms W-2, 1099 and K-1 within the last three years including those for the past year if the income tax returns for that year have not been prepared;

(3) copies of all pay stubs or other evidence of income for the current year and the last pay stub from the past year;

(4) statements for all accounts maintained with any financial institution, including banks, brokers and financial managers, for the past 24 months;

(5) the most recent statement showing any interest in any Keogh, IRA, profit sharing plan, deferred compensation plan, pension plan, or retirement account;

(6) the most recent statement regarding any insurance on the life of any party;

(7) a summary furnished by the employer of the party's medical insurance policy, coverage, cost of coverage, spousal benefits, and COBRA costs following dissolution;

(8) any written appraisal concerning any asset owned by either party.

(b) Such duty to disclose shall continue during the pendency of the action should a party appear. This section shall not preclude discovery under any other provisions of these rules.

COMMENTARY: This section is similar to Section 25-32, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-14. Medical Evidence

A party who plans to offer a hospital record in evidence shall have the record in the clerk's office twenty-four hours prior to trial. Counsel must recognize their responsibility to have medical testimony available when needed and shall, when necessary, subpoena medical witnesses to that end.

COMMENTARY: This section is similar to Section 15-4, but has been tailored to Family Support Magistrate matters. Medical evidence often is admitted into evidence in Family Support Magistrate court regarding an obligor's disability status.

(NEW) Sec. 25A-15. Experts

As soon as is practicable, if a party, including the State of Connecticut, is going to rely on in court expert testimony, that party shall provide notice to all opposing parties, but said notice shall not be provided less than 14 days before the hearing. Discovery, facts unknown, and opinions held by experts may be ordered disclosed by the judicial authority on such terms and conditions as the judicial authority deems reasonable.

COMMENTARY: This section is based on Section 13-4 but provides a timetable more realistic for Family Support Magistrate court and creates a discretionary, reasonableness standard for Family Support Magistrate court. Experts are rarely utilized and therefore should be controlled as part of the constraints on discovery issues in general.

(NEW) Sec. 25A-15A. Interrogatories; In General

(a) In any action in the family support magistrate division to establish, enforce or modify a child support order, upon motion of any party and when the judicial authority deems it necessary, any party may be required to answer all or part of the interrogatories set forth in Form 207 of the rules of

practice, which is printed in the Appendix of Forms in this volume.

(b) In any paternity action before the family support magistrate division interrogatories may only be served upon a party where the judicial authority deems it necessary.

(c) For good cause shown, in postjudgment matters, the judicial authority may upon motion authorize further discovery.

COMMENTARY: This section is based on Sec. 13-6, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-16. Answers to Interrogatories

(a) Any such interrogatories shall be answered under oath by the party to whom directed and such answers shall not be filed with the court but shall be served within thirty days after the date of certification of service, in accordance with Sections 10-12, 10-14 and 10-17, of the interrogatories or, if applicable, the notice of interrogatories on the answering party, unless:

(1) Counsel file with the court a written stipulation extending the time within which answers or objections may be served; or

(2) The party to whom the interrogatories are directed, after service in accordance with Sections 10-12, 10-14 and 10-17, files a request for extension of time, for not more than thirty days, within the initial thirty-day period. Such request shall contain a certification by the requesting party that the case has not been assigned for trial. Such request shall be deemed to have been automatically granted by the judicial

authority on the date of filing, unless within ten days of such filing the party who has served the interrogatories or the notice of interrogatories shall file objection thereto. A party shall be entitled to one such request for each set of interrogatories directed to that party; or

(3) Upon motion, the judicial authority allows a longer time.

(b) The party answering interrogatories shall attach a cover sheet to the answers. The cover sheet shall comply with Sections 4-1 and 4-2 and shall state that the party has answered all of the interrogatories or shall set forth those interrogatories to which the party objects and the reasons for objection. The cover sheet and the answers shall not be filed with the court unless the responding party objects to one or more interrogatories, in which case only the cover sheet shall be so filed.

(c) All answers to interrogatories shall repeat immediately before each answer the interrogatory being answered. Answers are to be signed by the person making them. The party serving the interrogatories or the notice of interrogatories may move for an order under Section 25A-18 with respect to any failure to answer.

COMMENTARY: This section is similar to Section 13-7, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-17. Requests for Production, Inspection and Examination; In General

(a) Upon motion and by order of the judicial authority, requests for production may be served upon any party at any time after the return day.

(b) If data has been electronically stored, the judicial authority may for good cause shown order disclosure of the data in an alternative format provided the data is otherwise discoverable. When the judicial authority considers a request for a particular format, the judicial authority may consider the cost of preparing the disclosure in the requested format and may enter an order that one or more parties shall pay the cost of preparing the disclosure.

(c) The party serving such request or notice of requests for production shall not file it with the court.

(d) A party seeking the production of a written authorization in compliance with the Health Insurance Portability and Accountability Act to inspect and make copies of protected health information, or a written authorization in compliance with the Public Health Service Act to inspect and make copies of alcohol and drug records that are protected by that act, shall file a motion pursuant to Section 13-11A.

COMMENTARY: This section is similar to Section 13-9, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-18. Order for Compliance; Failure to Answer or Comply with Order

(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or has failed to comply with the provisions of Section 25A-19, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-8, 13-10 except subsection (c), 25A-15A, 25A-16 or 25A-17, the judicial authority may make such order as appropriate.

(b) Such orders may include the following:

(1) The entry of a nonsuit or default against the party failing to comply;

(2) The award to the discovering party of the costs of the motion, including a reasonable attorney's fee;

(3) The entry of an order that the matters regarding which the discovery was sought or other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(4) The entry of an order prohibiting the party who has failed to comply from introducing designated matters in evidence;

(5) If the party failing to comply is the plaintiff, the entry of a judgment of dismissal.

COMMENTARY: This section is similar to Section 13-14, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-19. Continuing Duty to Disclose

If, subsequent to compliance with any request or order for discovery at any time the matter is before the court, a party discovers additional or new material or information previously requested and ordered subject to discovery or inspection or discovers that the prior compliance was totally or partially incorrect or, though correct when made, is no longer true and the circumstances are such that a failure to amend the compliance is in substance a knowing concealment, that party shall promptly notify the other party, or the other party's attorney, and file and serve in accordance with Sections 10-12, 10-14 and 10-17 a supplemental or corrected compliance.

COMMENTARY: This section is similar to Section 13-15, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-19A. Depositions; In General

In addition to other provisions for discovery and subject to the provisions of Sections 13-2, 13-3 and 13-5, any party who has appeared in any Title IV-D matter or in any matter under General Statutes §§ 46b-212 through 46b-213w where the judicial authority finds it reasonably probable that evidence outside the record will be required, may, at any time after the commencement of the action or proceeding, in accordance

with the procedures set forth in this chapter, take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena as provided in Section 13-28. The attendance of a party deponent or of an officer, director, or managing agent of a party may be compelled by notice to the named person or such person's attorney in accordance with the requirements of Section 13-27 (a). The deposition of a person confined in prison may be taken only by leave of the judicial authority on such terms as the judicial authority prescribes.

Leave of the court for such a deposition is required. Motions for the taking of a deposition shall include the proposed notice of the deposition and the identification of such documents or other tangible evidence as may be sought to be subpoenaed. Only those documents or other tangible evidence approved by the judicial authority shall be permitted to be subpoenaed from the deponent.

COMMENTARY: This section is similar to Section 13-26, but has been tailored to Family Support Magistrate matters. While it makes clear that depositions may be taken in a Title IV-D matter, this section limits the taking of depositions by requiring leave of the court. Depositions are not needed in most of these expedited proceedings. The requirement of identification of documents (or other tangible evidence sought) will help clarify what complexity exists in the case to require

the taking of a deposition, and limit and define its scope. This should prevent abuses of the process.

(NEW) Sec. 25A-19B. –Place of Deposition

(a) Any party who is a resident of this state may be compelled by notice as provided in Section 13-27 (a) to give a deposition at any place within the county of such party's residence, or within thirty miles of such residence, or at such other place as is fixed by order of the judicial authority. A plaintiff who is a resident of this state may also be compelled by like notice to give a deposition at any place within the county where the action is commenced or is pending.

(b) Except as otherwise required by law, a plaintiff who is not a resident of this state may be compelled by notice under Section 13-27 (a) to attend at the plaintiff's expense an examination in the county of this state where the action is commenced or is pending or at any place within thirty miles of the plaintiff's residence or within the county of his or her residence or in such other place as is fixed by order of the judicial authority.

(c) Except as otherwise required by law, a defendant who is not a resident of this state may be compelled:

(1) By subpoena to give a deposition in any county in this state in which the defendant is personally served, or

(2) By notice under Section 13-27 (a) to give a deposition at any place within thirty miles of the defendant's residence or within the county of his or her residence or at such other place as is fixed by order of the judicial authority.

(d) A nonparty deponent may be compelled by subpoena served within this state to give a deposition at a place within the county of his or her residence or within thirty miles of the nonparty deponent's residence, or if a nonresident of this state within any county in this state in which he or she is personally served, or at such other place as is fixed by order of the judicial authority.

(e) In this section, the terms "plaintiff" and "defendant" include officers, directors and managing agents of corporate plaintiffs and corporate defendants or other persons designated under Section 13-27 (h) as appropriate.

(f) If a deponent is an officer, director or managing agent of a corporate party, or other person designated under Section 13-27 (h), the place of examination shall be determined as if the residence of the deponent were the residence of the party.

COMMENTARY: This section is based on Section 13-29, but has been tailored to Family Support Magistrate matters.

(NEW) Sec. 25A-20. Appeal from Decision of Family Support Magistrate

Any person who is aggrieved by a final decision of a family support magistrate may appeal such decision in accordance with the provisions of General Statutes § 46b-231. The appeal shall be instituted by the filing of a petition which shall include the reasons for the appeal.

COMMENTARY: This provision was originally Section 25-66 and has been moved to this chapter.

(NEW) Sec. 25A-21. Support Enforcement Services

In cases where the payment of alimony and/or support has been ordered, a support enforcement officer, where provided by statute, shall:

(1) Whenever there is a default in any payment of alimony or support of children under judgments of dissolution of marriage or civil union or separation, or of support under judgments of support, where necessary, (A) initiate and facilitate, but not advocate on behalf of either party, an application to a family support magistrate and issue an order requiring said party to appear before a family support magistrate to show cause why such party should not be held in contempt, or (B) take such other action as is provided by rule or statute.

(2) Review child support orders (A) in non-TFA IV-D cases at the request of either parent or custodial party subject to a support order, or upon receipt of information indicating a substantial change in circumstances of any party to the support order, (B) in TFA cases, at the request of the bureau of child support enforcement, (C) as necessary to comply with federal requirements for the child support enforcement program mandated by Title IV-D of the Social Security Act, and initiate and facilitate, but not advocate on behalf of either party, an action before a family support magistrate to modify such support order if it is determined upon such review that

the order substantially deviates from the child support guidelines established pursuant to General Statutes §§ 46b-215a or 46b-215b. The requesting party shall have the right to such review every three years without proving a substantial change in circumstances; more frequent reviews shall be made only if the requesting party demonstrates a substantial change in circumstances.

(3) In connection with subdivision (1) or (2) above, or at any other time upon direction of a family support magistrate, investigate (A) the financial situation of the parties, using all appropriate information and resources available to the IV-D child support program, including information obtained through electronic means from state and federal sources in the certified child support system, or (B) information about the status of participation in programs that increase the party's ability to fulfill the duty of support, and report his or her findings thereon to a family support magistrate and to the parties and upon direction of a family support magistrate facilitate agreements between parties.

COMMENTARY: This section was originally Section 25-67 and has been moved to this chapter with amendments. It is intended to clarify the actual role of Support Enforcement Services.

(c) The time to take an appeal shall not be extended past forty days from the date of the issuance of notice of the rendition of the judgment or decision.

COMMENTARY: This amendment is intended to reflect the creation of the Commission on Child Protection and the transfer of the responsibility for assigning counsel from the Judicial Branch to the Commission. In an effort to improve the quality of legal representation in child protection matters, including appellate representation, the Commission on Child Protection has granted contracts specifically for appellate representation. These attorneys cover appellate reviews and take appeals on cases throughout the state. It is impractical for them to take over the entire juvenile case, which often, even after a final decision, remains pending before the juvenile court due to its jurisdiction over pending petitions and permanency reviews. It is more practical for the local juvenile court contract attorney to remain on the case and handle the ongoing juvenile court proceedings. An indigent party seeking appellate review is entitled to a review for meritorious grounds for appeal by his or her trial attorney and an appellate review attorney.

NEW PRACTICE BOOK FORM

(NEW) Form 207

**INTERROGATORIES-ACTIONS TO ESTABLISH,
ENFORCE OR
MODIFY CHILD SUPPORT ORDERS**

No.	:	SUPERIOR COURT
(Plaintiff)	:	FAMILY SUPPORT
	:	MAGISTRATE DIVISION
VS.	:	JUDICIAL DISTRICT OF
	:	AT
(Defendant)	:	(Date)

The undersigned, on behalf of the plaintiff/defendant, propounds the following interrogatories to be answered by the defendant/plaintiff within thirty (30) days of the filing hereof.

(1) For your present residence:

(a) what is the address?

(b) what type of property is it (apartment, condominium, single family home)?

(c) who is the owner of the property?

(d) what is your relationship to the owner (landlord, parents, spouse)?

(e) when did you start living at this residence?

(2) List the names of all the adults that live with you.

(a) For each adult you live with, what is your relationship to them (spouse, sibling, roommate, parent, girlfriend or boyfriend)?

(b) For each adult you live with, what is their financial contribution to the household (who pays the rent, who pays the utilities, who buys the groceries)?

(3) Give the name and address of your employer.

(a) Are you employed full time or part time? Are you self employed? If you are self employed, do not answer (b) through (h) and go directly to question 4.

(b) Are you paid a salary, by the hour basis, or do you work on commission or tips?

(c) What is your income per week?

(d) How many hours per week do you usually work?

(e) Is overtime available, and if it is, how many hours per week do you work overtime and what are you paid?

(f) Do you, or have you, ever received bonus income from your employment and what is the basis for the bonus?

(g) Does your employer deduct federal and state taxes and Medicare from your wages or are you responsible for filing your own deductions? If you file, provide a copy of your most recent tax returns.

(h) Do you have a second source of employment? If so, please provide the same information as requested in (a) through (g).

(4) If you are self employed:

(a) are you part of a partnership, corporation or LLC, and if you are, give the name of the business and your role in it?

- (b) name the other people involved in your business and their roles.

- (c) does the business file taxes (if so bring copies of the last two tax returns filed to your next court date)?

- (d) describe the work you do.

- (e) how many hours per week do you work, on average?

- (f) how much do you typically earn per hour?

- (g) list your business expenses, and what they cost per week.

- (h) state how you are typically paid (check or cash).

- (i) name the five people or companies you did most of your work for in the last year.

- (j) if you have a business account, what bank is it at (bring copies of the last six months of bank statements to your next court date)?

- (k) do you work alone or do you employ anyone and pay them wages? If you employ any one, please identify them, their relationship to you, if any, and the amount you pay them.

- (l) how do you keep your payment and expense records? Do you employ an accountant, and if so, please give the name and address of the accountant responsible for your records?

- (5) Except for your current job, list all the places you have worked for the last three years. For each place, list the address, the type of work you did, the dates you worked there and how much you were paid at each job.

- (6) If you cannot work because of a disability, what is the nature of your disability.

- (a) What is the date you became disabled?

(b) Is this disability permanent or temporary?

(c) If a doctor has told you that you cannot work, what is the name of the doctor and his or her office (bring a note from this doctor stating that you cannot work to your next court date)?

(d) If a doctor has told you that you cannot work, did he or she say you cannot work full time or part time?

(e) If you have a partial or permanent disability, please provide the percentage rating.

(f) Is your disability the result of an automobile accident, an accident at work, an accident at home or otherwise? Please give the date and details of the incident and whether you have filed a lawsuit or worker's compensation claim as a result.

(g) Have you had any children since the incident? If so, list their dates of birth.

(7) Have you applied for Social Security Disability (SSD) or Supplemental Security Income (SSI)?

(a) If you did, when did you apply and where are you in the application process?

(b) Have you been told if or when you will receive benefits? If so, who told you and what is the date they gave you?

(c) If your application for SSD and /or SSI has been denied, did you appeal? If you appealed, what is the status of the appeal and what lawyer, if any, represents you?

(d) Have you applied for or are you receiving State assistance?

(e) Are you a recipient of the State supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program (SAGA medical or cash)? If so, state the source of the benefit, the effective date of the benefit and the date when your

eligibility for benefits will be re-determined by the Department of Social Services.

(8) Do you have any lawsuits pending?

(a) If you do, what type of case is it?

(b) Give the name, address, email address and phone number of the lawyer handling the case for you.

(c) What amount do you expect to recover and when do you expect to receive it?

(d) If you have already settled the case, please provide a copy of the settlement statement.

(9) Do you expect to inherit any money or property in the next six months?

(a) If you do, who do you expect to inherit from and where do they or where did they live?

(b) What do you expect to inherit, what is its value and when do you expect to inherit it?

(c) What is the name and address of the person or lawyer handling the estate and where is the probate court in which the action is filed?

(10) Is anyone holding any money for you? If so, name the person, their relationship to you, their address and the amount of money they are holding.

(11) Do you own any rental properties, by yourself, with someone else or in trust? If the answer is yes,

(a) is the property residential or commercial?

(b) please identify the location of the property or properties, include the address and identify your ownership interest.

(c) do you derive any income from the property? Do you calculate your net income from the property on a weekly, monthly or yearly basis?

(d) what are your expenses relating to the property or properties? Please state the amount of your mortgage payment, if any, and the amount of your taxes, insurance and utility payments, if any, and your method of payment of these expenses.

(e) did you have to apply for a loan to finance any part of the real property or to finance the purchase of any personal property? If so, identify the item, state the amount of the loan and give a copy of the loan application.

(12) Are you the beneficiary or settler of a trust?

(a) If so, please identify the trust, the type of trust, the date of the creation of the trust, the name and address of the trustee and how the trust is funded.

(b) How often do you receive a distribution from the trust and from whom, and in what amounts are the distributions?

By _____

I, _____, certify that I have reviewed the interrogatories set out above and the responses to those interrogatories and they are true and accurate to the best of my knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public/Commissioner of Superior Court

CERTIFICATION

This is to certify that a copy of the foregoing has been mailed, this ____ day of _____, 20__ to (names and addresses of all opposing counsel and self-represented parties upon whom service is required by Practice Book Section 10-12 et seq.).

(Attorney Signature)

COMMENTARY: The above form implements Section 25A-16.