

## AMENDMENTS TO THE JUVENILE RULES

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

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

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

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

(d) Any party who wishes to alter, to update, to amend or to modify the initial terms of referral shall seek prior permission of the judicial authority. There shall be no ex parte communication with the evaluator by counsel prior to completion of the evaluation, except that the evaluator conducting a competency evaluation of a parent or guardian may have ex parte communication with said counsel of a parent or guardian

prior to the completion of the competency evaluation.

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

- (1) Counsel shall identify themselves as an attorney and the party she or he represents;
- (2) Counsel shall advise the evaluator that with respect to any substantive inquiry into the evaluation or opinions contained therein, the evaluator has the right to have the interview take place in the presence of counsel of his/her choice, or in the presence of all counsel of record;
- (3) Counsel shall have a duty to disclose to other counsel the nature of any ex parte communication with the evaluator and whether it was substantive or procedural. The disclosure shall occur within a reasonable time after the communication and prior to the time of the evaluator's testimony;
- (4) All counsel shall have the right to contact the evaluator and discuss procedural matters relating to the time and place of court hearings or evaluation sessions, the evaluator's willingness to voluntarily attend without subpoena, what records are requested, and the parameters of the proposed examination of the evaluator as a witness.

(f) Counsel for children, youths, parents or guardians may move the judicial authority for permission to disclose court records for an independent evaluation of their own client. Such evaluations shall be paid for by the moving party and shall not be required to be disclosed to the judicial authority or other parties, unless the requesting party, upon receipt of the evaluation report, declares an intention to introduce the evaluation report or call the evaluator as a witness at trial.

COMMENTARY: The changes to this section clarify existing practice, provide consistency of terms, and specify a necessary exception

to the general prohibition against ex parte communication with an evaluator.

**Sec. 35a-12. Protective Supervision—Conditions, [and] Modification and Termination**

(a) When protective supervision is ordered, the judicial authority will set forth any conditions of said supervision including duration, specific steps and review dates.

(b) A protective supervision order shall be scheduled for an in court review and reviewed by the judicial authority at least thirty days prior to its expiration. At said review, an updated social study shall be provided to the judicial authority.

(c) If an extension of protective supervision is being sought by the commissioner of the department of children and families or any other party in interest, including counsel for the minor child or youth, then a written motion for the same shall be reviewed by the judicial authority at least thirty days prior to its expiration.

(d) Parental or guardian noncompliance with the order of protective supervision shall be a ground for a motion to modify the disposition. Upon finding that the best interests of the child so warrant, the judicial authority, on its own motion or acting on a motion of any party and after notice is given and hearing has been held, may modify a previously entered disposition of protective supervision in accordance with the applicable General Statutes.

(e) Any party who seeks to have an order of protective supervision terminate prior to its scheduled expiration date shall file a written motion to terminate the order. The motion shall set for the reason or reasons why it is in the child's best interests for protective supervision to terminate early. If termination of protective supervision is sought on

the day of a scheduled in court review hearing, such motion may be filed that day. All parties shall be afforded reasonable time to review the written motion and accompanying status reports or other relevant documents. Upon finding that the best interests of the child so warrant, the judicial authority, acting on such motion and after notice is given and a hearing has been held, may terminate an order of protective supervision prior to its scheduled expiration date.

COMMENTARY: These revisions provide a process in a child protection case for the termination of the order of protective supervision prior to the scheduled expiration date when it is in the child's best interests