

PILOT STANDING ORDER

PILOT PROGRAM TO INCREASE PUBLIC ACCESS TO CHILD PROTECTION PROCEEDINGS

CHILD PROTECTION SESSION AT MIDDLETOWN

HON. CHRISTINE E. KELLER, CHIEF ADMINISTRATIVE JUDGE

HON. JAMES BENTIVEGNA, PRESIDING JUDGE, CHILD PROTECTION SESSION AT MIDDLETOWN

EFFECTIVE FEBRUARY 16, 2010

(a) Pursuant to Section 5 of P.A. 09-194 and proposed Superior Court Rule 1-11D, the chief court administrator is establishing a pilot program to increase public access to trial proceedings in juvenile matters in which a child is alleged to be uncared for, neglected, abused or dependent or is the subject of a petition for termination of parental rights, except as otherwise provided by law or as hereinafter precluded or limited, and subject to the limitations set forth in Practice Book §§ 1-10B and 32a-7 and General Statutes §46b-124. The pilot program shall be located at the Child Protection Session in the Judicial District of Middlesex, 1 Court Street, Middletown, Connecticut 06457.

(b) As used in this standing order, the term “trial proceeding” shall mean the final hearing on the merits of any juvenile matter not involving evidence or allegations of the sexual abuse of a child which concerns: (1) an order of temporary custody pursuant to Practice Book §33a-7(d) or (e); (2) a petition alleging a child to be uncared for, neglected, abused or dependent; or (3) a petition for termination of parental rights. A trial proceeding shall be deemed to include all courtroom proceedings on any contested motion for review of permanency plan, motion to revoke commitment or motion to transfer guardianship which has been consolidated with the underlying proceeding for the final hearing on the merits. A trial proceeding shall commence with the swearing in of the first witness.

(c) Except as provided in this standing order or as otherwise provided by law, effective February 16, 2010, all trial proceedings in the pilot program at the Child Protection Session shall be presumed to be open to the public.

(d) Upon written motion of any party, guardian ad litem, witness or other interested person, or upon its own motion, the judicial authority may at any time,

prior to or during a trial proceeding, order that public access to all or any portion of the trial proceedings be denied or limited if the judicial authority concludes that there is good cause for the issuance of such an order. In determining if good cause has been shown to deny or limit public access to a trial proceeding under this standing order, the judicial authority shall consider the child's best interest, the safety, legal rights and privacy concerns of any person which may be affected by the granting or denial of the motion, and the integrity of the judicial process. Where good cause has been shown, the court may, in fashioning its order, consider whether there is any reasonable alternative to the issuance of an order limiting or denying public access to protect the interest to be served. An agreement of the parties to deny or limit public access to the trial proceeding shall not constitute a sufficient basis for the issuance of such an order.

(e) The burden of proving that public access to any trial proceeding governed by this standing order should be denied or limited shall be on the person who seeks such relief. Accordingly, any person moving for such relief, other than the judicial authority when acting upon its own motion, shall support the motion with an accompanying memorandum of law stating all known grounds upon which it is claimed that such relief should be granted. The motion and memorandum shall be served on all parties of record and be filed with the court, where they shall become parts of the confidential record of the underlying proceeding pursuant to General Statutes §46b-124. Absent good cause shown, such motion and memorandum shall be served and filed not less than fourteen days before the trial proceeding is scheduled to begin, except that if the trial proceeding concerns a contested order of temporary custody case, they shall be served and filed not less than two days before the trial proceeding is scheduled to begin.

(f) Upon the filing of any motion to deny or limit public access to a trial proceeding governed by this standing order, or upon the determination of the judicial authority, upon its own motion, that the ordering of such relief should be considered, the judicial authority shall schedule a hearing on the motion and shall, where practicable, post a notice of the hearing on the judicial website so that all interested persons can attend the hearing and present appropriate legal arguments in support of or opposition to the motion. Such notice shall set forth the date, time, location and the general subject matter of the hearing, and shall identify the underlying proceedings solely by reference to the first name and first initial of the last name of the child who is the subject of the proceeding or, if the proceeding involves more than one child, by reference to the first name and first initial of the last name of the eldest of the children involved. All memoranda of law and other written submissions in support of or in opposition to the motion shall be served on all parties of record and be filed with the pilot court, where they shall become part of the confidential record of the underlying proceeding pursuant to General Statutes §46b-124.

(g) Notwithstanding the confidentiality of the motion to deny or limit public access, the accompanying memorandum, and all memoranda of law and other written

submissions in support of or in opposition to the motion, the hearing on the motion shall be conducted in open court. Any person whose rights may be affected by the granting or denial of the motion, including any media representative, may attend and be heard at the hearing in the manner permitted by the judicial authority, but shall not be allowed intervening party status. The hearing shall be conducted by the judicial authority in a manner consistent with maintaining the confidentiality of the records of the underlying proceeding and protecting the interests for which denial or limitation of public access has been sought. At the conclusion of the hearing, the judicial authority shall announce its ruling on the motion in open court. If and to the extent that the judicial authority determines that public access to the trial proceeding should be denied or limited in any way, it shall articulate the good cause upon which it finds that such relief is necessary, shall specify the facts upon which it bases that finding, and shall order that a transcript of its decision become a part of the confidential record of the underlying proceeding pursuant to General Statutes §46b-124. If, however, and to the extent that it further determines that any such articulation of good cause or specification of factual findings would reveal information that any interested person is entitled to keep confidential, then the judicial authority shall make such articulation and specification in a signed writing, which shall be filed with the court and become part of the confidential record of the underlying proceeding pursuant to General Statutes §46b-124. The decision shall be final.

(h) Prior to the commencement of any trial proceeding accessible to the public, the judicial authority shall hold a pretrial conference with counsel for all parties to anticipate, evaluate and resolve prospective problems with the conduct of an open proceeding and to ensure compliance with the protective provisions of subsection (d) of this standing order.

(i) The efficacy of this pilot program shall be evaluated by the Rules Committee of the Superior Court on or before December 31, 2010. The Rules Committee shall receive recommendations from the chief court administrator, the juvenile access pilot program advisory board and other sources. Counsel and parties attending and participating in trial proceedings at the Child Protection Session will be provided with surveys seeking voluntary information and comment on the pilot program as part of the evaluation process.