

**STATE OF VERMONT
VERMONT SUPREME COURT
JUNE TERM, 2025**

Order Promulgating Amendments to Rule 502 of the Vermont Rules of Evidence

Pursuant to the Vermont Constitution, Chapter II, § 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 502 of the Vermont Rules of Evidence be amended as follows (deleted matter struck through; new matter underlined):

RULE 502. LAWYER-CLIENT PRIVILEGE

(a) **Definitions.** As used in this rule:

(1) A “client” is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, and includes one who consults or who consults a lawyer or lawyer referral and information service with a view to obtaining professional legal services ~~from the lawyer.~~

(2) A “representative of the client” is (A) a person having authority to obtain professional legal services or act on advice rendered pursuant thereto, on behalf of the client, or (B) any other person who, while acting in the scope of employment for the client, makes or receives a confidential communication necessary to effectuate legal representation for the client. In the case of a corporation, the officers and directors and those persons who have the authority to control or substantially participate in a decision regarding action to be taken on the advice of a lawyer are also “representatives of the client.”

(3) A “lawyer” is a person authorized, or reasonably believed by the client to be authorized, to engage in the practice of law in any state or nation.

(4) A “representative of the lawyer” is one employed by the lawyer to assist the lawyer in the rendition of professional legal services.

(5) A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

(b) **General rule of privilege.** A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client (1) between the client or the client’s representative and the client’s lawyer or the lawyer’s representative, (2) between the lawyer and the lawyer’s representation, (3) by the client or the client’s representative or lawyer, or a representative of the lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein, (4) between representatives of the client or between the client and a representative of the client, or (5) among

lawyers and their representatives representing the same client, or (6) between a client and a lawyer referral and information service for the purpose of seeking professional legal services.

(c) **Who may claim the privilege.** The privilege may be claimed by the client, the client's guardian or conservator, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the lawyer or the lawyer's representative at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the client.

(d) **Exceptions.** There is no privilege under this rule:

(1) *Furtherance of crime or fraud.* If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud;

(2) *Claimants through same deceased client.* As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transactions;

(3) *Breach of duty by a lawyer or client.* As to a communication relevant to an issue of breach of duty by the lawyer to the client or by the client to the lawyer;

(4) *Document attested by a lawyer.* As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness;

(5) *Joint clients.* As to a communication relevant to a matter of common interest between or among two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between or among any of the clients.

Reporter's Notes—2026 Amendment

This amendment to Rule 502(a) and (b) extends an evidentiary privilege to communications between a client and a lawyer referral and information service made for the purpose of seeking professional legal services. Nothing about the amendment is intended to affect the rules of professional conduct or otherwise define what constitutes an attorney-client relationship.

2. That this rule is prescribed and promulgated effective **January 1, 2026**. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report this rule to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 2nd day of June, 2025.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen Associate Justice

Nancy J. Waples, Associate Justice