

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

**Order Promulgating Amendments to Rule 3(a) and (b)(3)  
of the Vermont Rules of Probate Procedure**

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

1. That Rule 3(a) and (b)(3) of the Vermont Rules of Probate Procedure be amended as follows (deleted matter struck through; new matter underlined):

**RULE 3. COMMENCEMENT AND DURATION OF PROCEEDINGS**

(a) **Commencement generally.** Except as otherwise provided in Rules 57, 60.1(d), or 72, a probate proceeding is commenced by filing with the court a petition directed to the court and a list of interested persons as defined in Rule 17 on forms appropriate to the proceeding accompanied by the appropriate filing fee. Notice shall then be served in accordance with Rule 4 upon all interested persons, except as otherwise provided in paragraphs (b)(2) and (3) ~~of this rule.~~

**(b) Commencement and duration: decedents' estates.**

(1) For purposes of these rules, a probate proceeding involving a decedent's estate shall begin with:

(A) a petition to open an estate, or

(B) a petition to begin a proceeding authorized by law with respect to a decedent's estate, including a declaratory judgment petition, if the decedent's estate is not already the subject of a probate proceeding under this subdivision,

and shall continue until the proceeding is closed pursuant to Rule 60.1. The petition shall be accompanied by a death certificate or other proof of death satisfactory to the court and the original will, if any, and any other codicils thereto.

(2) If a petition to open a decedent's estate alleges that the estate contains no assets that will pass by will or under the laws of descent and distribution and is accompanied by an affidavit of the petitioner attesting to the lack of any such assets and setting forth facts demonstrating the need of an executor or administrator to perform administrative acts for the estate, the court will issue letters testamentary or grant administration to enable performance of such other acts as may be necessary to administer the estate.

(3) ~~If Pursuant to 14 V.S.A. § 107, if the petitioner reasonably believes that all interested persons identified at the commencement of the proceeding pursuant to Rule 17(a)(1) the heirs at law and surviving spouse will consent to the allowance of the will, or to the intestate proceeding, as provided in Rule 16, the petitioner may file the petition without serving them and may seek their consents. If all interested persons~~ the heirs at law and surviving spouse file consents, the

court may proceed with allowance of the petition without further notice; and the court shall then direct who is to give notice of the proceeding to all interested persons. ~~provided that if any interested person does~~ If all heirs at law and the surviving spouse do not file a consent within a reasonable time, the court will set a hearing date, and the petitioner will serve the petition and notice of the hearing on all interested persons.

### Reporter’s Notes—2025 Amendment

Rule 3(a) is amended to provide reference to the alternatives to notice to all interested persons outlined in paragraphs (b)(2) and (3). Rule 3(b)(3) is amended to make it consistent with 14 V.S.A. § 107, which enables the court to allow a petition if all the heirs at law and surviving spouse consent. Consent is not required of all other interested persons.

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 6<sup>th</sup> day of May, 2025.

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice



Signed by the Vermont Supreme Court