

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

**Promulgation Order Adding Rule 19 to the  
Vermont Rules for Family Proceedings**

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

1. That Rule 19 of the Vermont Rules for Family Proceedings be added as follows:

**RULE 19. EXTREME RISK PROTECTION ORDERS**

**(a) Application of Civil Rules.**

(1) *In General.* Except as provided in this rule or by statute, the Rules of Civil Procedure apply to actions for extreme risk protection.

(2) *Rules Not Applicable.* Rules 16.3 (Alternative Dispute Resolution), 55 (Default) and 79.1 (Appearance and Withdrawal of Attorneys) of the Vermont Rules of Civil Procedure do not apply to actions under this rule.

(3) *Rules Modified.* Rule 4 of the Vermont Rules of Civil Procedure applies to actions under this rule only to the extent consistent with 13 V.S.A. § 4056. Rule 30 of the Vermont Rules of Civil Procedure applies to actions under this rule except that a deposition may be taken only by order for good cause shown. Rule 58 of the Vermont Rules of Civil Procedure applies to actions under this rule except that a judgment need not be set forth on a separate document and is effective only when it is in writing, signed by the judge, and entered as provided in Rule 79(a) of those rules.

**(b) Parties.** A state's attorney, the Office of the Attorney General, or a family or household member may file a petition requesting that the court issue an extreme risk protection order. When a petition is filed by a family or household member, the state's attorney of the county where the petition was filed will be substituted as the plaintiff in the action upon the issuance of an ex parte order or at least seven days prior the hearing on the petition. Upon substitution of the state's attorney as the plaintiff, the family or household member will no longer be a party. Following substitution of the state's attorney, the court will provide the family or household member with copies of the notices of hearing, filings, and orders subsequently issued in the case.

**(c) Content of Petition.** A petition seeking an extreme risk protection order must allege that the respondent poses an extreme risk of causing harm to the respondent or to another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. An affidavit in support of the petition must state the specific facts supporting the allegations; any dangerous weapons the petitioner believes to be in the respondent's possession, custody or control and whether any abuse prevention proceedings or petitions against stalking have been filed with respect to the respondent and whether any orders from such proceedings are in effect. If the petitioner is a family or household member, the petitioner must also provide an address, telephone number, and email address if available for

notification purposes which must not be provided to any person other than the state's attorney without the written consent of the petitioner.

(d) **Emergency Relief.** Temporary orders may be issued ex parte, without written or oral notice to the respondent or respondent's attorney, upon motion, affidavit, and findings by the court as required by 13 V.S.A. § 4054. If a temporary ex parte order is issued, the court will hold a hearing on the petition within 14 days unless the petition is voluntarily dismissed.

(e) **Denial of Ex Parte Temporary Orders.** When a judge denies an application for temporary order under this rule, the judge must state the particular reasons for the denial in its decision.

(f) **Transmittal to State's Attorney.** If the petition and/or motion for an ex parte temporary order is filed by a family or household member, the court must transmit a copy of all documents to the state's attorney of the county where the petition was filed, along with all supporting documents as follows:

(1) If the request for an ex parte temporary order is granted, the clerk must transmit the documents to the state's attorney forthwith together with the temporary order and notice of hearing.

(2) If the request for an ex parte temporary order is denied, the clerk must transmit the documents to the state's attorney together with the court's statement of reasons for the denial.

(3) If there is no request for an ex parte temporary order, the clerk must transmit the documents to the state's attorney together with a notice of hearing no later than 7 days prior to date of the hearing.

(g) **Voluntary Dismissal of Motion for Temporary Order.** The prosecutor may voluntarily dismiss a motion for a temporary order prior to hearing. If the prosecutor voluntarily dismisses a motion for an ex parte temporary order, the court will vacate the temporary ex parte order and direct the person in possession of the dangerous weapon to return it to the respondent consistent with 13 V.S.A. § 4059. If the petition was filed by a family or household member, the court will provide notice of the dismissal to the family or household member.

(h) **Grant of Order.**

(1) *All orders.* An order issued under this rule must contain the name and address of the court, the names of the parties, the date of the petition, a statement of the grounds for issuance of the order, the findings that support the order, the date and time of the order, the date and time that the order expires, a description of the requirements for relinquishment of the weapons and a statement to the respondent in substantially the same form as set forth in 13 V.S.A. § 4053(G). In addition, all orders must bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(2) *Ex Parte Orders.* If the order is issued ex parte, it must also state upon its face the date and time of the hearing when the respondent may appear to contest the order. The opportunity to contest will be scheduled as soon as reasonably possible, but in no event more than 14 days after the date of the issuance of the order.

(3) *Final Orders*. All final orders must contain a description of how to appeal the order; a description of how to request termination of the order; and a statement directing the entity or person in possession of the firearm to release it to the owner upon expiration of the order.

(i) **Electronic Issuance of Temporary Ex Parte Orders**. The court may issue an ex parte extreme risk protection order by telephone or by reliable electronic means pursuant to 13 V.S.A. § 4054(d)(2).

(j) **Termination Motion**. A motion to terminate an extreme risk protection order may be filed by a respondent no more than once during the effective period of the order. The court will schedule a hearing within 14 days of the filing of the motion. Notice of the hearing will be served by a law enforcement officer pursuant to 13 V.S.A. § 4056. If the court denies the motion, the court must state the particular reasons for the denial in its decision.

(k) **Renewal Motion**: A state's attorney or the Office of the Attorney General may file a motion to renew a final order for an additional period of six months. The motion must be accompanied by an affidavit and filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit must comply with 13 V.S.A. § 4053(c). The court will schedule a hearing within 14 days of the filing of the motion. Notice of the hearing together with the motion must be served by a law enforcement officer pursuant to 13 V.S.A. § 4056. If the court grants the motion to renew, the court must issue an order that complies with the requirements for final orders for extreme risk protection. If the court denies the motion, the court must state the particular reasons for the denial in its decision.

### **Reporter's Notes—2026 Amendment**

Rule 19 is added to provide rules of procedure for obtaining an Extreme Risk Protection Order (ERPO) in accordance with 13 V.S.A. §§ 4051-4061.

In 2018, the Vermont Legislature enacted legislation to establish a procedure for a state's attorney or the Attorney General to obtain an order from the Family Division of the Superior Court prohibiting a person from possessing a firearm or explosive for up to six months if the person's possession thereof poses an extreme risk of harm to the person or other persons. See 2017, No. 97 (Adj. Sess.). The order is known as an Extreme Risk Protection Order or ERPO. The legislation specifically provides that ERPO proceedings be in accordance with the Vermont Rules for Family Proceedings and in addition to any other available civil or criminal remedies. See 13 V.S.A. § 4057(a).

In 2023, ERPO legislation was amended to permit family or household members to file an ERPO petition in order to obtain a temporary ex parte order with the caveat that following the issuance of the ex parte order, the state's attorney in the county where the matter was filed would be substituted for the family or household

member. 2023, No. 45, §§ 4-6. The stated purpose of Act 45 was “to prevent death by suicide by reducing access to firearms by children and prohibited persons and to reduce community violence. See 2023, No. 45, § 2 (Legislative Purpose).

Rule 19(a) specifies that the rules of civil procedure apply to ERPO proceedings with certain exceptions and modifications. The exceptions and modifications are similar to those covered in V.R.F.P. 9 which governs the procedure for obtaining an abuse prevention order. See V.R.F.P. 9 (a). V.R.C.P. 4 is also modified to the degree it is inconsistent with the provisions for service of ERPOs described in 13 V.S.A. § 4056.

Rule 19(b) specifies who may file an ERPO petition. While family or household members are permitted to file for an ex parte temporary order, the state’s attorney in the county in which the petition is filed, is substituted as the plaintiff upon the issuance of a temporary order or within seven days prior to the hearing on the petition. Upon substitution, the family or household member is no longer a party. See 13 V.S.A. § 4053(b)(2). While no longer parties, the rule requires the court to provide the family or household member with notices of hearings, filings, and orders subsequently issued in the proceeding.

Rule 19(c) sets forth the required allegations for an ERPO petition consistent with 13 V.S.A. § 4053(c). If the petitioner is a family or household member, they are required to provide contact information; however, similarly to V.R.F.P. 9(b), that information may not be provided to any person other than the state’s attorney without the written permission of the family or household member.

Rule 19(d) permits the issuance of temporary ex parte orders without notice to the respondent upon motion and affidavit in accordance with 13 V.S.A. § 4054(a)-(b). Unless there is a voluntary dismissal of the petition, hearings must be held within 14 days of the issuance of a temporary order. 13 V.S.A. § 4054(c)(1).

Rule 19(e) requires that if a petition is denied, the reasons for the denial must be recorded in writing and given to the petitioner.

Rule 19(f) outlines the process for the substitution of a state’s attorney and the transmission of all court documents in the case when a petition is filed by a family or household member. See 13 V.S.A. §§ 4054(b)(1)(B), 4053(d)(2).

Rule 19(g) addresses the procedure for voluntary dismissals by the prosecutor prior to a hearing on the ERPO petition. 13 V.S.A.

§ 4054(c)(2). If the petition was filed by a family or household member, the court must provide notice of the dismissal to the family or household member.

Rule 19(h) addresses the requirements for ERPO orders issued by the court. Paragraph (1) sets for the requirements for all orders, paragraph (2) additional specific requirements for ex parte orders and paragraph (3) specific requirements for final orders. The provisions reflect the requirements set forth in statute. 13 V.S.A. §§ 4053 (e)(2), 4054 (d)(1).

Rule 19(i) permits the issuance of ex parte orders by electronic means. 13 V.S.A. § 4054(d)(2).

Rule 19(j) sets forth the procedures for termination motions filed by respondents in ERPO cases. A respondent is limited to filing one termination motion during the effective period of the order. 13 V.S.A. § 4055(a), (c)-(f).

V.R.F.P. 19(k) sets forth the procedure for renewal motions filed a state’s attorney or the Attorney General’s Office in accordance with 13 V.S.A. § 4055(b)-(f).

3. That this rule be prescribed and promulgated, effective on January 1, 2026. The Reporter’s Notes are advisory.

4. 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 4<sup>th</sup> day of August, 2025.



Signed by the Vermont Supreme Court

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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 Waples, Associate Justice