

STATE OF VERMONT
VERMONT SUPREME COURT

TERM, 2026

Promulgation Order Amending Rule 807(a) 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 807(a) of the Vermont Rules of Evidence be amended as follows (deleted matter struck through; new matter underlined):

RULE 807. TESTIMONY WHERE VICTIM IS A MINOR OR A PERSON WITH A MENTAL ILLNESS, OR AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

(a) **Application.** This rule applies only to the testimony of a child age 12 or under or a person with a mental illness as defined in 18 V.S.A. § 7101(14), or an intellectual or developmental disability as defined in 1 V.S.A. §§ 146-148 (hereinafter “witness”) in a proceeding:

(1) in a prosecution for sexual assault under 13 V.S.A. § 3252 or aggravated sexual assault under 13 V.S.A. § 3253 alleged to have been committed against that witness;

(2) in a prosecution for lewd and lascivious conduct with a child under 13 V.S.A. § 2602 or incest under 13 V.S.A. § 205 alleged to have been committed against that child;

(3) in a prosecution for abuse, neglect or exploitation under 33 V.S.A. § 6913 or lewd and lascivious conduct under 13 V.S.A. § 2601 alleged to have been committed against that person with a mental illness, or intellectual or developmental disability;

(4) under chapters 52 and 52A ~~55~~ of Title 33 involving a delinquent act alleged to have been committed against that witness, if that delinquent act would be an offense listed in this subsection if committed by an adult;

(5) in a civil action in which one of the parties or witnesses has been an alleged victim of causes of action alleging sexual assault, lewd and lascivious conduct or sexual activity as defined in 33 V.S.A. § 6902;

(6) in a prosecution for domestic assault under 13 V.S.A. § 1042 or aggravated domestic assault under 13 V.S.A. § 1043 or § 1044 alleged to have been committed against that witness.

Reporter’s Notes—2027 Amendment

Rule 807(a)(4) is amended to incorporate a change made necessary by the enactment of Act No. 185 of 2007 (Adj. Sess.), which repealed 33 V.S.A. chapter 55 and replaced it with 33 V.S.A. chapters 51-53, effective January 1, 2009. The amendment substitutes a reference to the appropriate sections of Title 33.

2. That this rule is prescribed and promulgated effective _____. 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 ____ day of _____, 2027.

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

Christina E. Nolan, Associate Justice

Michael P. Drescher, Associate Justice