

STATE OF VERMONT
VERMONT SUPREME COURT

TERM, 2026

Order Promulgating Amendments to Rule 4.1(a)(2) of 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 4.1(a)(2) of the Vermont Rules for Family Proceedings be amended as follows (new matter underlined; deleted matter struck through):

RULE 4.1. CASES INVOLVING MINOR CHILDREN

(a) Complaint; Service; Case Management Conference.

(2) *Commencing an Action; Service.* If either party is or may be obligated to pay child support to the other party or to the Office of Child Support, the action must be commenced, and service of process must be made, as provided in this paragraph.

(A) The complaint must be filed and a hearing or case manager's conference must be scheduled before the complaint is served.

(B) After filing, the family division clerk will complete a notice of hearing or notice of case manager's conference and must attempt to schedule the hearing or case manager's conference so that it is held from 45 to 60 days after the summons and complaint were filed, unless because of unavailability of magistrates, judges, or case managers or because of a subsequent failure to complete service, it is not practical to do so.

(C) After a hearing or case manager's conference has been scheduled, prompt service on the defendant must be made as follows:

(i) by a designated representative of the Office of Child Support (OCS) when OCS is providing Title IV-D services on a case,

(ii) in all other cases by the clerk, or upon request, the plaintiff's attorney,~~must make prompt service on the defendant.~~

(D) Service may be made by personally serving the defendant by any method provided in V.R.C.P. 4(d), (e), or (k) with a summons, complaint, and the notice of hearing or case manager's conference signed by the clerk.

(E) In the alternative, the summons, complaint, and notice of hearing or case manager's conference may be served by mailing them to the defendant at one or more of the addresses supplied by the plaintiff or by the defendant or otherwise, by certified mail, return receipt requested and delivery restricted to the addressee. The plaintiff must pay the expense.

(F) If certified mail is refused by the defendant, ~~the clerk may serve~~ the notice of hearing or case manager's conference, summons, and complaint may be served by mailing it to the defendant by ordinary first-class mail and by certifying that such service has been made. Any service must be made:

(i) by a designated representative of the Office of Child Support (OCS) when OCS is providing Title IV-D services on a case;

(ii) in all other cases by the clerk.

(G) If a self-represented party has completed a notice of appearance form choosing to be served by email, service may be made on that party by delivering the summons, complaint, and notice of hearing or case manager's conference, if applicable, by email under the following conditions:

(i) Any applicable rules regarding electronic transmission of documents are followed by the sending party;

(ii) A party wishing to alter the method of service provided under this rule must immediately notify the court, the other party, and OCS, if OCS is a party, of any relevant change including changes to an email address;

(iii) Service by email to an email address pursuant to this rule is complete upon transmission, provided that such service is not effective if the sending party learns that the attempted service did not reach the receiving party; and

(iv) Any certificate of service filed with the court must indicate the method by which the document was served. If the document was served by email, the certificate of service must specify the email address or addresses to which it was sent.

(H) Service may be made by publication by order of the court, as provided in V.R.C.P. 4(g).

(~~H~~ I) At any time, service may be made by delivering to the defendant by any method chosen by the plaintiff the summons and a request that the defendant waive service by any other method. The summons and request must be accompanied by the complaint, the notice of hearing or case manager's conference if applicable, and a waiver of service form. The defendant must sign and date the waiver of service and return it to the court no later than 21 days from the date the documents were delivered, or 60 days from that date if the documents and request are delivered to the defendant outside a state or territory of the United States. If the defendant answers the complaint, the defendant must do so within 21 days of the date that the defendant signed the waiver or, if the waiver is undated, within 21 days of the date that the waiver is filed with the court. Failure to comply with a request to waive service may result in the imposition of costs, including reasonable attorney's fees, against the defendant for expenses incurred in effecting service by another means.

(~~I~~ J) In actions wherein a petition for special findings pursuant to 14 V.S.A. § 3098 has been filed, service of the petition may be waived by order of the court as provided in Rule 4.3(g).

Reporter's Notes—2027 Amendment

Beginning in August of 2020, the Judiciary and Office of Child Support (OCS) commenced a pilot project in the Windham and Windsor units designed to explore a means to more efficiently provide service to defendants in cases filed where OCS was already providing services under Title IV-D of the Social Security Act. Title IV-D established a Child Support Enforcement Program. See 33 V.S.A. §4101(a) (designating OCS as agency responsible for Title IV-D in Vermont). The advent of e-filing provided an opportunity for OCS rather than the court to be responsible for service in cases where it was providing Title IV-D services. To that end, the Supreme Court issued Administrative Order 50, which amended Rule 4.2 to require OCS to effect service in pilot project counties. Additionally, A.O. 50 permitted OCS to serve via email if the defendant had executed a notice of appearance form choosing to be served by email. As a result of the pilot project's success in Windham and Windsor counties, the project was expanded to include additional units. As of January 1, 2026, OCS was effecting service in the cases in which it provides IV-D services in all units in Vermont. The amendments to V.R.F.P. 4.1 incorporate the provisions of A.O. 50 into the Vermont Rules for Family Proceedings.

V.R.F.P. 4.1(a)(2)(C) is amended to authorize a designated representative of OCS to serve a defendant when OCS is providing Title IV-D services on a case. This change will impact newly filed Rule 4 actions, V.R.F.P. 4.0(a)(1), as well as motions after judgment under V.R.F.P. 4.2(b)(2).

V.R.F.P. 4.1(a)(2) is further amended to add a new method of service in subparagraph (G). In cases where a defendant has already completed a notice of appearance form in which the defendant has chosen to be served by email, service on the defendant can be made by email subject to certain requirements set forth in items (i)–(iv). These requirements are identical to the requirements provided in A.O. 50. The provisions for service in current (G), (H), and (I) (service by publication and waiver of service) are re-lettered as (H), (I), and (J).

2. That this amendment be prescribed and promulgated, effective on _____. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report this amendment 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 _____, 2026.

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

Christina Nolan, Associate Justice

Michael Drescher, Associate Justice