

**VERMONT SUPREME COURT  
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS**

**Minutes of Meeting on TEAMS  
April 19, 2024**

The meeting was called to order by Judge Davenport. Judge McDonald-Cady joined the meeting after it started. Present were Committee members: Judge Jennifer Barrett, Judge Kate Kennedy, Judge Jiron, Mag. Barry Peterson, Margaret Villeneuve, Jessica Seamen, Ashley Harriman, Alicia Sanders, Marshall Pahl, Nate Hine and Susan Buckholz. Also present was Justice Nancy Waples as liaison with the Vermont Supreme Court and ex-officio member, Eddie Poff, from the Vermont Network Against Domestic Violence. Judge Amy Davenport (ret.) was present as the Reporter.

1. Approval of draft minutes of the meeting of January 26, 2024: the draft minutes were approved with abstentions from members who were not present at the meeting.
2. Status of proposed amendments:
  - a. Proposed Amendment to V.R.F.P. 1(i)(2)(B) and (7) related to respectful language: The comment period ended February 12, 2024. Judge McDonald-Cady reported that there were no comments. Committee voted unanimously to propose promulgation to the Supreme Court.
  - b. Proposed Amendment to Remove V.R.F.P. 15(i) related to eCabinet registration number requirement: The proposed amendment is out for comment. Comment period ends April 26, 2024.
3. Rules related to Juvenile Proceedings
  - a. Amendment to V.R.F.P.(1)(b)(1) to provide enforcement of the requirement in the rule to provide race and ethnicity data at the time of filing a delinquency petition. Judge Davenport reported that the Court may not be able to support a configuration of the Odyssey system to require race/ethnicity data upon the filing of a delinquency petition. Marshall Pahl alerted the Committee to a new report on violations of probation filed in the criminal division. The report highlights the large number of defendants with “unknown” race/ethnicity data. The report can be found on the House Judiciary web site.
  - b. V.R.F.P. 1(a)(3): applicability of V.R.Cr.P. 11(c)(8) advice collateral consequences to delinquency cases. Judge McDonald-Cady confirmed that she had sent the draft colloquy to Judge Warren who is the Chair of the Family Oversight Committee. She reported that Judge Warren had asked whether the appropriate time for the colloquy is at “merits adjudication” rather than simply “merits admission.” In other words, a youth should understand the collateral consequences of an adjudication regardless of whether the youth admits to the delinquency or a judge determines that the youth committed the delinquency in a contested case.
4. Rules related to Special Immigration Status for Vulnerable Non-Citizen Children (SJIS): See 4 V.S.A. §33(18), 4 V.S.A. §35, 14 V.S.A. §3098. S.163/Act 98 substantially amends 14 V.S.A. §3098 and adds a new section related to children in juvenile proceedings.
  - a. Proposed Amendment to Rule 4.1: A draft of a proposed rule to clarify that a hearing on a motion for SJIS in a parentage or divorce proceeding takes scheduling priority over a case manager conference was reviewed by the Committee in January. The Committee decided to combine this rule with an amendment to Rule 4.0 related to the waiver of service.
  - b. Report from Subcommittee on Service Rule for Cases Filed with a Motion for SJIS Findings (Judge McDonald-Cady, Judge Kennedy, Ashley Harriman, Sue Buckholz and Judge Davenport as Reporter): The subcommittee has had an initial meeting and agreed conceptually on an amendment to Rule 4.0. They will review a draft at their next meeting.

5. Amendment to Rule 9 Related to Complaints for Extreme Risk Protection: At the Committee's October meeting, Attorney Ellwood on behalf of the Family Oversight Committee, requested that the Committee consider a rule to protect the confidentiality of contact information applicable to Extreme Risk Protection Orders (ERPOs). 13 V.S.A. §4052 provides that jurisdiction for the issuance of an ERPO lies with the Family Division. 13 V.S.A. §4052 provides that proceedings for the issuance of an ERPO "be in accordance with Vermont Family Rules." A subcommittee was formed at the January meeting to work on a proposal for rules related to ERPOs. The subcommittee made up of Judge McDonald-Cady, Rachel Strecker, Sue Buckholz, Laura Bierly, Kristin Gozzi (Kristin is unable to meet on Fridays due to her juvenile schedule, but has agreed to review drafts) and Judge Davenport as Reporter, has met once and agreed that procedure related to ERPOs will need a separate rule from Rule 9, the rule that governs relief from abuse proceedings. Judge Davenport hopes to have a draft for the subcommittee to review at its next meeting.
6. Proposal to review Family Rules for respectful language: Given the degree of work before the Committee at this time, it was agreed to postpone further discussion of this issue.
7. Amendment to Rule 4.2(e) Related to Venue for Post-Judgment Motions: The Court Users Group (CUG) and the Change Advisory Board for the Court's IT Division has requested that the Family Rules Committee consider an amendment to the venue provisions for post-judgment motions to accommodate changes in the system due to the advent of the Odyssey case management system. The current rule allows a litigant to file a motion in a county other than the county where the original judgment was issued unless the opposing party still resides in the original county or neither party is a resident of the state. The framework of the new e-filing system requires a change of venue to be filed in the original county in order for a case to move to another county, but the current rule does not require this. Maggie Villeneuve pointed out that the change in procedure will also raise service and scheduling issues in Rule 4.2(b). Judge Kennedy indicated that there might be an analogous process in probate. She will check on this and get back to the Committee. Mag. Peterson and Maggie Villeneuve agreed to be part of a small subcommittee to draft an amendment to Rule 4.2(b) and (e).
8. Amendment to Rule 4.2(f) to require an automatic scheduling of a child support hearing when the extent of parent-child contact is modified: Rachel Strecker raised this issue at the January meeting. It was agreed that the Committee should consider an amendment that would require an automatic child support hearing whenever a change to parent child contact substantially increases or decreases the amount of contact that the non-custodial parent has with the child. The difficulty will be to define a "substantial change." The Committee agreed to form a subcommittee to work on this issue. The subcommittee consists of Mag. Peterson, Jessica Semen, Rachel Strecker and Judge Davenport as Reporter.
9. New Business:
  - a. Membership: Alycia Sanders reported that she has decided to resign from the Committee. She will let the Chief Justice know. Attorney Sharon Gentry was recommended as a possible replacement.
  - b. Applicability of V.R.Cr.P. 41.1 Non-Testimonial Identification (NTO) in Juvenile Proceedings: Marshall Pahl reported that the Criminal Rules Committee has referred a problem with the application of V.R.Cr.P. 41.1 to delinquency proceedings to the Family Rules Committee. V.R.Cr.P. 41.1 is not one of the rules listed in V.R.F.P. 1(a)(1) or (2), which means that under the Family rules it is applicable to juvenile proceedings. However, because the definition of "offense" in V.R.Cr.P. 41.1(m)(1) does not specifically include delinquencies, some judges have interpreted the criminal rule as precluding the issuance of an NTO in a juvenile case. It was agreed to place this issue on the agenda for the July meeting for further discussion.
10. 2024 Meeting Schedule: July 19, 2024 and October 25, 2024.
11. The meeting adjourned at 3:01 p.m.