

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

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

The meeting was called to order by Judge McDonald-Cady. Present were Committee members: Judge Jennifer Barrett, Judge Jiron, Mag. Barry Peterson, Judge Kathryn Kennedy, Margaret Villeneuve, Rachel Streker, Laura Bierley, Marshall Pahl, Kristin Gozzi, Nate Hine, Susan Buckholz and Susan Ellwood. 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 April 19, 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: reviewed favorably by the Legislative Committee on Judicial Rules (LCJR) on June 19, 2024. Promulgation by the Supreme Court is pending.
  - 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. Judge McDonald Kerry reported that she has not received any comments. Committee voted favorably to propose promulgation to the Supreme Court.
3. Rules related to Special Immigration Status for Vulnerable Non-Citizen Children (SIJS): See 4 V.S.A. § 33(18), 4 V.S.A. § 35, 14 V.S.A. §3 098. S.163/Act 98 substantially amended 14 V.S.A. § 3098 and added a new section related to children in juvenile proceedings. Committee reviewed draft of amendments to Rule 4.1 and 4.3 related case manager conferences. Committee voted unanimously to recommend to the Supreme Court that the proposed amendment go out for comment.
4. 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 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, has been meeting to develop a draft rule for these proceedings. The subcommittee hopes to finalize the draft so that it can be reviewed by the full committee at the October meeting.
5. 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. A small subcommittee made up of Mag. Peterson, Maggie Villeneuve and Judge Davenport are working on a draft amendment to Rule 4.2(b) and (e) which should be ready for review by the full committee at the October meeting.

6. 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 that the best way to resolve the issue was through a joint subcommittee made up of members of both the family and criminal rules committees. Judge Davenport to approach Judge Morris who is the reporter for the Criminal Rules Committee about the formation of a joint subcommittee. Members from Family Rules Committee will include Judge McDonald-Cady, Marshall Pahl, Kristin Gozzi and Judge Davenport as the Reporter.
7. Future Projects: The following projects are on hold to be revisited in the fall:
  - a. 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.
  - b. 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.
8. New Business:
  - a. Membership: With the resignation of Alycia Sanders, there is a vacancy on the Committee. Attorney Sharon Gentry has been recommended as a possible replacement.
  - b. Inconsistency between 15 V.S.A. § 783 and V.R.F.P. 4.2(f) related to wage withholding: Judge McDonald-Cady reported that she has been approached by Judge Fenster about this issue. She will review and bring it back as an agenda item.
  - c. Advisory Committee on Artificial Intelligence: Judge Jiron has been appointed to this new advisory committee as a representative of this committee. He reported that the committee has met once with another meeting scheduled in August. He will keep this Committee informed as to progress on recommendations related to AI as they apply to family rules.
9. 2024 – 2025 Meeting Schedule: Our last 2024 meeting is scheduled for October 25, 2024. The Committee agreed to the following meeting dates in 2025: January 24, April 25, July 18 and October 24.
10. The meeting adjourned at 2:35 p.m.